

STATE OF MISSISSIPPI

Office of the Governor



TO THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S PARTIAL VETO MESSAGE FOR HOUSE BILL 1054, SECTION 2:

I am returning House Bill 1054: "AN ACT TO DIRECT THE STATE FISCAL OFFICER TO TRANSFER CERTAIN AMOUNTS TO THE BUDGET CONTINGENCY FUND FROM THE STATE GENERAL FUND AND CERTAIN SPECIAL FUNDS DURING FISCAL YEARS 2011 AND 2012; TO DIRECT THE STATE FISCAL OFFICER TO TRANSFER CERTAIN AMOUNTS TO THE STATE TREASURER FROM CERTAIN LOAN PROGRAM FUNDS DURING FISCAL YEAR 2011; TO PROVIDE THAT THE STATE TREASURER SHALL USE THOSE FUNDS TO PAY DEBT SERVICE ON STATE GENERAL OBLIGATION BONDS FALLING DUE DURING FISCAL YEAR 2011; TO AUTHORIZE THE CLERK OF THE HOUSE OF REPRESENTATIVES OR THE SECRETARY OF THE SENATE TO SUBMIT ANNUAL REQUESTS TO THE STATE FISCAL OFFICER FOR THE FUNDS NECESSARY TO PAY CERTAIN LEGISLATIVE-RELATED EXPENSES; TO PROVIDE THAT THE STATE FISCAL OFFICER SHALL TRANSFER TO THE LEGISLATURE THE AMOUNT OR AMOUNTS AS REQUESTED FROM A SPECIAL FUND OF THE SECRETARY OF STATE'S OFFICE; TO AMEND SECTION 5 OF CHAPTER 562, 2010 REGULAR SESSION, TO REVISE THE AMOUNTS THAT THE STATE FISCAL OFFICER IS REQUIRED TO TRANSFER TO THE GOVERNOR'S OFFICE-DIVISION OF MEDICAID SPECIAL FUND DURING FISCAL YEAR 2011 FROM FUNDS TO THE CREDIT OF CERTAIN AGENCIES, WHICH WAS CONTINGENT UPON THE FEDERAL GOVERNMENT EXTENDING THE INCREASED FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) PROVIDED FOR IN THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; TO DELETE THE PROVISION FOR THE STATE FISCAL OFFICER TO TRANSFER SPECIFIED SUMS TO CERTAIN AGENCIES AND FUNDS FROM THE AMOUNT THAT WAS TRANSFERRED TO THE BUDGET CONTINGENCY FUND; TO AMEND SECTION 43-13-405, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE TREASURER MAY NOT TRANSFER OWNERSHIP OF THE ASSETS IN THE RMK SELECT TIMBERLAND 1 PORTFOLIO OF THE HEALTH CARE TRUST FUND TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM UNTIL A TRANSFER EQUAL TO THE MONETARY VALUE OF THE ASSETS IN THE PORTFOLIO IS MADE BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM INTO THE HEALTH CARE TRUST FUND; TO EXTEND THE DATE OF THE REPEALER ON THE HEALTH CARE TRUST FUND; TO AMEND SECTION 43-13-407, MISSISSIPPI CODE OF 1972, TO TRANSFER A CERTAIN SUM FROM THE HEALTH CARE TRUST FUND TO THE HEALTH CARE EXPENDABLE FUND DURING FISCAL YEAR 2012; TO AUTHORIZE THE STATE TREASURER TO BORROW FUNDS TO OFFSET ANY TEMPORARY CASH FLOW DEFICIENCIES IN THE HEALTH CARE EXPENDABLE FUND FROM ANY STATE-SOURCE SPECIAL FUNDS IN THE STATE TREASURY IN AMOUNTS THAT CAN BE REPAID FROM THE HEALTH CARE EXPENDABLE FUND DURING THE FISCAL YEAR IN WHICH THE FUNDS ARE BORROWED; TO DIRECT THE STATE TREASURER TO TRANSFER A CERTAIN SUM FROM THE HEALTH CARE EXPENDABLE FUND TO THE HEALTH CARE TRUST FUND DURING FISCAL YEAR 2012; TO EXTEND THE DATE OF THE REPEALER ON THAT SECTION; TO AMEND SECTION 27-103-213, MISSISSIPPI CODE OF 1972, TO CLARIFY THE DISTRIBUTION OF THE UNENCUMBERED CASH BALANCE IN THE STATE GENERAL FUND AT THE END OF EACH FISCAL YEAR; TO AMEND SECTION 35-1-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE FUNDS PAID TO THE STATE BOARD OF VETERANS AFFAIRS BY THE VETERAN RESIDENTS OF STATE VETERANS HOMES TO FUND THEIR MONTHLY EXPENSES AT THE STATE VETERANS HOMES SHALL BE CONSIDERED TO BE SPECIAL FUNDS HELD IN A FIDUCIARY CAPACITY FOR THE BENEFIT OF THE RESIDENTS OF THE STATE VETERANS HOMES; TO REVISE THE TIME BY WHICH A PERSON WHO OWNS A RESIDENTIAL STRUCTURE IN HANCOCK, HARRISON OR JACKSON COUNTY THAT WAS DESTROYED BY HURRICANE KATRINA AND WAS LOCATED ON PROPERTY THAT DOES NOT MEET THE CURRENT LOCAL REQUIREMENTS FOR THE MINIMUM SIZE OF A LOT FOR A

RESIDENTIAL STRUCTURE, MUST HAVE BEGUN CONSTRUCTION ON A NEW RESIDENTIAL STRUCTURE ON THE PROPERTY IN ORDER NOT TO HAVE TO MEET THE CURRENT LOCAL REQUIREMENTS FOR THE MINIMUM SIZE OF A LOT; AND FOR RELATED PURPOSES,” partly approved and partly not approved and assign the following reasons for my partial veto.

After full consideration, I am vetoing Section 2 of House Bill 1054 which provides an unlimited appropriation to the Legislature.

House Bill 1054, also known as the “transfer bill,” is a bill that, among other things, provides for the transfer of state funds into certain accounts for use in the general fund appropriations process. Because it provides the specific amounts, fund sources, and accounts into which funds shall be transferred, the transfer bill is the lynchpin of the entire budgeting process. My concern is not with the transfer components of House Bill 1054, but instead lies specifically with Section 2, which appropriates to the Legislature unlimited authority to spend money from another state agency’s budget for any legislative-related expense.

While there is no doubt that House Bill 1054 is a critical part of the appropriations process, the bill is a general bill which cannot be combined with an appropriations bill as prohibited by Article 4, Section 69 of the Mississippi Constitution. Yet Section 2 clearly *appropriates* funds to be spent by the Legislature during Fiscal Year 2012. The inclusion of an appropriation in a general bill is not only unconstitutional, but Section 2 is also subject to my line item veto because it is just that – an appropriation.

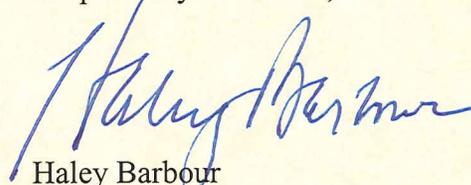
Section 2 further violates Article 4, Section 63 of the Mississippi Constitution, which prohibits the Legislature from passing any bill that does not provide for a maximum sum being appropriated. In fact, Section 2 of House Bill 1054 mandates that the State Fiscal Officer pay the expenses related to printing legislation, the state’s share of assessments from legislative-related organizations, and “any other legislative-related expenses” at the “amount or amounts as requested by the Legislature” from the Secretary of State’s budget. Section 2 fails to set a maximum amount of funding to be used for the Legislature for the aforementioned purposes. On the contrary, the section states that the “Legislature is authorized to escalate the appropriate budgets during the fiscal year by the respective amounts transferred and to expend those sums for the purposes authorized by law.” This language, which gives the Legislature unfettered authority to drain the Secretary of State’s budget for unspecified legislative expenses, stands in clear violation of the Mississippi Constitution.

From a policy perspective, Section 2 sets a dangerous precedent. The Legislature has its own appropriations bill that normally includes funding for items such as the printing of legislation and assessments for legislative-related organizations. However, the Legislature failed to appropriate any money to pay for such assessments in the FY 2012 legislative appropriation even though it increased its appropriation from FY 2011. There is simply no justification for adding this language to a separate appropriation bill. The Legislature should prioritize spending within its own budget, just like other agencies, instead of using a back-door approach to cushion their budget at another agency’s expense.

It is my duty to carefully review all bills to ensure they meet constitutional muster and protect the interests of taxpayers. Unfortunately, Section 2 of House Bill 1054 fails to meet this standard on multiple accounts. It is an unconstitutional appropriation that would negatively impact another state agency. It’s also bad policy.

For these reasons, I urge the members to sustain the partial veto of House Bill 1054.

Respectfully submitted,



Haley Barbour
GOVERNOR

4/26/11 5:56p