House Bill 502 (AS PASSED HOUSE AND SENATE)
By: Representative Welch of the 110th

A BILL TO BE ENTITLED
AN ACT

To amend Article 7 of Chapter 10 of Title 9 and Article 2 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to continuances relative to civil practice and procedure and continuances relative to trial, respectively, so as to provide for and revise the granting of continuances and stays in civil and criminal cases at certain times and intervals for members and certain staff of the General Assembly for purposes of fulfilling their responsibilities to the General Assembly; to revise continuances for members of the Board of Regents and the Attorney General; to provide for related matters; to provide for applicability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 10 of Title 9 of the Official Code of Georgia Annotated, relating to continuances relative to civil practice and procedure, is amended by revising Code Section 9-10-150, relating to grounds for continuance – attendance of party or attorney in General Assembly, as follows:

"9-10-150.
(a) A member of the General Assembly who is a party to or the attorney for a party to a case, or any member of the Office of Legislative Counsel, including the legislative counsel and persons provided for under subsection (d) of Code Section 28-4-3, appearing on behalf of the General Assembly in a case; or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Speaker Pro Tempore of the House of Representatives, or the chairperson of the Judiciary Committee or Special Judiciary Committee of the Senate or of the Judiciary Committee or Judiciary, Non-civil Committee of the House of Representatives who is the lead counsel for a party to a case pending in any trial or appellate court or before any administrative agency of this state, shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or of any..."
response to any subpoena, discovery, or motion, and appearance at any hearing, trial, or argument. Unless a shorter length of time is requested by the member, the continuance and stay shall last for the seven days prior to the regular or extraordinary session of the General Assembly; the length of any regular or extraordinary session of the General Assembly; and during the first three weeks following any recess or adjournment, including an adjournment sine die of any regular or extraordinary session; and the entirety of any day during the calendar year on which a legislative committee for which the member serves or is staff holds a scheduled meeting, the member attends a national legislative conference or board meeting, the member attends a caucus meeting, or the member attends a meeting of a study committee of the General Assembly. A continuance and stay shall also be granted for such other times as the member of the General Assembly or staff member certifies to the court that his or her presence elsewhere is required by his or her duties with the General Assembly. Notwithstanding any other provision of law, rule of court, or administrative rule or regulation, the time for doing any act in the case which is delayed by the continuance provided by this Code section shall be automatically extended by the same length of time as the continuance or stay covered.

(b)(1) For such other times not provided for in subsection (a) of this Code section, a member of the General Assembly who is a party to a case or the lead counsel for a party to a case may request a continuance or stay as the member of the General Assembly certifies to the court that his or her presence elsewhere is required by his or her duties with the General Assembly. The certification by the member of the General Assembly shall be in writing and shall state with particularity the nature of the General Assembly duties that require the continuance or stay. Opposing counsel, a party to the case, or the court on its own motion shall have ten days from receipt of the request for a continuance or stay to object to the request by stating with particularity the grounds upon which it is determined that such stay or continuance will cause significant harm to the rights of a party or would otherwise be detrimental to the interest of justice. The court upon receipt of the objection, or on its own motion, shall consider the following in determining whether to grant or deny the continuance or stay:

(A) The length of time that the case has been pending;
(B) The length of delay that such stay or continuance will cause in the resolution of the case;
(C) The nature of the General Assembly duties that require the continuance or stay; and
(D) Such other factors that the court determines to be relevant in determining the harm to the rights of the parties or the interest of justice in the granting or denial of the request for a continuance or stay.
(2) Absent a ruling by the court denying the continuance or stay certified by the member under paragraph (1) of this subsection, such continuance or stay shall be considered granted as a matter of law."

SECTION 2.

Said article is further amended by revising Code Section 9-10-151, relating to grounds for continuance of a member of the Board of Regents, as follows:

"9-10-151.

Should any member of the Board of Regents of the University System of Georgia or any member of the State Board of Education be engaged otherwise occupied, at the time of any meeting of the board, as counsel or party in any case pending in the courts of this state and should the case be called for trial during the regular session of the board, the absence of the member to attend the session shall be good ground for a postponement or continuance of the case until the session of the board has come to an end."

SECTION 3.

Article 2 of Chapter 8 of Title 17 of the Official Code of Georgia Annotated, relating to continuances relative to trial, is amended by revising Code Section 17-8-26, relating to grounds for granting continuances – party or party's attorney in attendance at General Assembly, as follows:

"17-8-26.

(a) A member of the General Assembly who is a party to or the attorney for a party to a case; any member of the Office of Legislative Counsel, including the legislative counsel and persons provided for under subsection (d) of Code Section 28-4-3, appearing on behalf of the General Assembly in a case; or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, or the chairperson of the Judiciary Committee or Special Judiciary Committee of the Senate or of the Judiciary Committee or Judiciary, Non-civil Committee of the House of Representatives who is the lead counsel for a party to a case which is pending in any trial or appellate court or before any administrative agency of this state shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or of any response to any subpoena, discovery, or motion, and appearance at any hearing, pretrial appearance, arraignment, plea or motion calendar, trial, or argument. When a case, motion, hearing, or argument is called and is subject to a continuance or stay under this Code section due to the party's attorney's membership in the General Assembly, the party shall not be required to be present at the call of the case, motion, hearing, or argument. Unless
a shorter length of time is requested by the member, the continuance and stay shall last for
the seven days prior to the regular or extraordinary session of the General Assembly; the
length of any regular or extraordinary session of the General Assembly; and during the first
three weeks following any recess or adjournment, including an adjournment sine die of any
regular or extraordinary session; and the entirety of any day during the calendar year on
which a legislative committee for which the member serves or is staff holds a scheduled
meeting. Notwithstanding any other provision of law, rule of court, or administrative rule or
regulation, and to the extent permitted by the Constitutions of the United States and of the
State of Georgia, the time for doing any act in the case which is delayed by the continuance
or stay provided by this Code section shall be automatically extended by the same length of
time as the continuance or stay covered.

(b)(1) For such other times not provided for in subsection (a) of this Code section, a
member of the General Assembly who is a party to a case or the lead counsel for a party
to a case may request a continuance and stay shall also be granted for such other times
as the member of the General Assembly or staff member certifies to the court that his or
her presence elsewhere is required by his or her duties with the General Assembly. The
certification by the member of the General Assembly shall be in writing and shall state
with particularity the nature of the General Assembly duties that require the continuance
or stay. Opposing counsel, any person who is alleged in the case by the state to be a
victim, or the court on its own motion shall have ten days from receipt of the request for
a continuance or stay to object to the request by stating with particularity the grounds
upon which it is determined that such stay or continuance will cause significant harm to
the rights of a party or would otherwise be detrimental to the interest of justice. The court
upon receipt of the objection, or on its own motion, shall consider the following in
determining whether to grant or deny the continuance or stay:

(A) The length of time that the case has been pending;
(B) The length of delay that such stay or continuance will cause in the resolution of the
case;
(C) The nature of the General Assembly duties that require the continuance or stay; and
(D) Such other factors that the court determines to be relevant in determining the harm
to the rights of the parties or the interest of justice in the granting or denial of the
request for a continuance or stay.

(2) Absent a ruling by the court denying the continuance or stay certified by the member
under paragraph (1) of this subsection, such continuance or stay shall be considered
granted as a matter of law."
SECTION 4.

Said article is further amended by revising Code Section 17-8-27, relating to grounds for granting of continuances to the Attorney General, as follows:

"17-8-27. When any case pending in the courts of this state in which the Attorney General is of counsel is scheduled to be called for any purpose during sessions of the General Assembly or during a period of 15 days preceding or following sessions of the General Assembly, on motion of the Attorney General or an assistant attorney general, it shall be a good ground for continuance that the Attorney General and his staff are occupied in aid of the business of the General Assembly."

SECTION 5.

This Act shall apply to all civil and criminal cases, including, but not limited to, any case currently initiated within any court in this state.

SECTION 6.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 7.

All laws and parts of laws in conflict with this Act are repealed.