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July 14, 2017

TO THE SECRETARY OF THE SENATE
99th GENERAL ASSEMBLY
FIRST REGULAR SESSION
STATE OF MISSOURI

Herewith I return to you Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 entitled:

AN ACT

To repeal sections 105.478, 144.026, 210.845, 302.441, 400.9-501, 452.370, 452.747, 454.500, 456.1-103, 456.4-414, 456.4-420, 456.8-808, 475.024, 478.463, 479.020, 479.170, 479.353, 488.029, 488.2206, 488.2250, 488.5050, 513.430, 513.440, 514.040, 515.575, 515.635, 552.020, 557.035, 565.076, 565.091, 566.010, 575.280, 577.001, 577.010, 577.037, 577.060, and 595.045, RSMo, and to enact in lieu thereof sixty-eight new sections relating to judicial proceedings, with penalty provisions.

I disapprove of Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128. My reasons for disapproval are as follows.

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 started as a one-page, 35-word bill that removed the division designations from the Jackson County courts. The final bill is no longer short or simple. Quite the opposite; now it spans 77 pages and impacts unrelated issues in 68 statutory sections.¹ This final bill violates the Missouri Constitution and contradicts other legislation passed this session and already signed.

Multiple constitutional issues plague Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128. The issues begin with the assortment of subjects covered by the bill. The Missouri Constitution requires that “[n]o bill shall contain more than one subject which shall be clearly expressed in its title, . . .” Article III, Section 23. “The test to determine if

¹ Ironically, the final bill does not even accomplish its original objective: instead of removing the Jackson County court division designations, the final bill preserves them.

a bill contains more than one subject is whether all provisions of the bill fairly relate to the same subject, have a natural connection therewith or are incidents or means to accomplish its purpose.” *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 102 (Mo. banc 1994) (internal quotation omitted).

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128’s subject is “relating to judicial proceedings,” but many provisions are entirely non-judicial. Examples clutter the bill. For example, the bill prohibits the Department of Revenue from contacting taxpayers by mail about possible sales taxes owed. A different section authorizes conservation agents to write tickets for littering. Another portion requires the attorney general to report on claims that never reached the courthouse.² Elsewhere, the bill permits trustees to terminate up to \$250,000 trusts and allows parents to transfer their parental rights by signing a notarized form. The list could go on.

These parts of the bill cannot relate to judicial proceedings when they do not involve judicial proceedings. As evidenced by these examples and others, Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 violates the Missouri Constitution’s single subject requirement. Moreover, any futile attempt to argue that every issue in the bill relates to a single subject would implicate the Missouri Constitution’s clear title requirement, because the broad and amorphous “judicial proceedings” title does not give notice of the wide range of unrelated issues actually covered. *See Home Builders Ass’n of Greater St. Louis v. State*, 75 S.W.3d 267, 270 (Mo. banc 2012).

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 compounds these constitutional concerns by undermining other legislation. One of this session’s important tort reform successes, Senate Substitute for Senate Bill No. 31, limited a party’s damages evidence to the actual cost of medical care. *See* Section 490.715.5. Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 does the exact opposite by presuming that the bills for medical care are fair and reasonable. *See* Section 595.219.5. By allowing plaintiffs’ attorneys to argue conflicts with Senate Substitute for Senate Bill No. 31 or to seek potentially inconsistent outcomes, Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 undercuts the hard-fought tort reform gains achieved this session.

Other inconsistencies exist. Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34 helps protect the home addresses of victims of rape, human trafficking, and domestic violence. This bill contains a similar, but not identical, provision. Indeed, the language differs in a dozen different ways. I appreciate the good intentions of the legislators who worked on this important issue, but the inconsistency between the two bills can only negatively affect the protections provided by Conference Committee Substitute for House Committee Substitute for Senate Substitute for Senate Bill No. 34.

² Monthly reports already published by the Attorney General prove this point. Through May 31, almost 100 claims had been settled in 2017 that were not subject to litigation.

A separate and serious flaw in the bill concerns the fees charged by court reporters. The State of Missouri employs more than 140 court reporters, assigning one to each circuit judge. Each court reporter creates the courtroom's official transcript of proceedings. How much state-employed court reporters can charge is currently capped by statute. Any citizen or party seeking an official transcript of the proceedings must purchase the transcript from the court reporter. Since court reporters are the only official transcribers, they have a monopoly on courtroom transcripts.

Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 would remove the price caps altogether.³ Under this bill, court reporters could charge any price they choose. A court reporter could, for example, charge \$100 per page. This is problematic because court reporters have a monopoly on producing these transcripts.

This change would limit citizen's access to justice and also negatively impact Missouri taxpayers. The Office of Administration's Budget & Planning Division estimates that the State of Missouri paid court reporters more than \$1 million for court transcripts last year. Removing the price caps would cost state government even more. For example, the Missouri State Public Defender predicts that Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 would cost its office at least \$100,000 more per year, or the equivalent of two public defenders.

The myriad issues in Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 raise serious constitutional, statutory, and policy concerns. Unfortunately, Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 contained many provisions I support that were the product of the hard work of many legislators. I look forward to working with the legislature on many of these important policies next session, including improving the foster care system.

In accordance with the above stated reasons for disapproval, I am returning Conference Committee Substitute for Senate Committee Substitute No. 2 for Senate Bill No. 128 without my approval.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric R. Greitens". The signature is stylized and written over a horizontal line.

Eric R. Greitens
Governor

³ In just the last 10 years, the price caps have more than doubled, from \$1.50 per page in early 2007 to \$3.50 per page today.