

March 14, 2025

TO THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S VETO MESSAGE FOR HOUSE BILL 1085

I am returning House Bill 1085: "AN ACT TO AMEND SECTIONS 57-78-3 AND 57-78-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY, RATHER THAN THE MISSISSIPPI DEVELOPMENT AUTHORITY, SHALL BE THE ADMINISTERING AGENCY FOR THE GRANT PROGRAM; TO INCREASE THE MAXIMUM OF GRANT FUNDS THAT MAY BE PROVIDED TO A COMMUNITY UNDER THE PROGRAM DURING A YEAR; TO DELETE THE PROVISION REQUIRING THAT THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY SHALL PROVIDE THE MISSISSIPPI MAIN STREET ASSOCIATION WITH NO MORE THAN TWO PERCENT OF THE AMOUNT OF FUNDS DEPOSITED INTO THE MISSISSIPPI MAIN STREET REVITALIZATION GRANT FUND FOR ADMINISTRATIVE EXPENSES IN CARRYING OUT ITS DUTIES UNDER THE MISSISSIPPI MAIN STREET REVITALIZATION GRANT PROGRAM; TO REPEAL SECTION 33 OF CHAPTER 113, LAWS OF 2024, WHICH PROVIDES FUNDS FROM THE MISSISSIPPI MAIN STREET REVITALIZATION GRANT PROGRAM FUND TO THE MISSISSIPPI DEVELOPMENT AUTHORITY FOR MAKING GRANTS TO CERTAIN MAIN STREET DESIGNATED COMMUNITIES FOR CERTAIN PROJECTS; TO AMEND SECTION 2 OF CHAPTER 113, LAWS OF 2024, TO REVISE THE FISCAL YEAR 2025 APPROPRIATION TO THE MISSISSIPPI DEVELOPMENT AUTHORITY TO REDUCE THE AMOUNT OF SPECIAL FUNDS APPROPRIATED TO THE AUTHORITY; TO AMEND CHAPTER 66, LAWS OF 2024, TO REVISE THE FISCAL YEAR 2025 APPROPRIATION TO THE MISSISSIPPI DEPARTMENT OF ARCHIVES AND HISTORY TO INCREASE THE AMOUNT OF SPECIAL FUNDS APPROPRIATED TO THE DEPARTMENT; TO PROVIDE THAT THE DEPARTMENT SHALL DISTRIBUTE FUNDS FROM THE MISSISSIPPI MAIN STREET REVITALIZATION GRANT PROGRAM FUND TO CERTAIN MAIN STREET DESIGNATED COMMUNITIES FOR CERTAIN PROJECTS; AND FOR RELATED PURPOSES."

Article 4, Section 72 of the Mississippi Constitution of 1890 ("Constitution"), commonly referred to as the Presentment Clause, prescribes the exclusive method for a bill to become law. The Clause is modeled after the Presentment Clause in the United States Constitution, a clause adopted by the Framers to clearly spell out the procedures for adopting laws and prevent factions from attempting to depart from this constitutional law-making process. Specifically, upon presentment to the Governor of a bill that has been passed by both legislative chambers, the Governor may (a) sign the bill within 5 days of presentment, and it becomes law; (b) return the bill without signature, and such bill will become law as if he had signed it; or (c) return the bill with his objections (veto) to the chamber of origin, and such bill will become law if it is subsequently passed by each chamber upon a two-thirds vote. Additionally, if the Governor is unable to return a bill by the 5th legislative day after presentment due to the adjournment of the Legislature, the Governor may return the bill with or without his signature, or with his objections within 15 days of presentment.

The Constitution authorizes only four types of bills: revenue bills, appropriations bills, general bills and local and private (special) bills. Revenue bills generate money to fund the operation of state government and require passage on a 3/5th vote of each legislative chamber. Appropriations bills fix the maximum sum of money that may be drawn from the state treasury for a particular use, and such use may be conditioned by the authorizing legislation. General bills create laws of general application--that is they (a) operate equally upon all persons in a particular class or in a like situation, (b) are reasonable and (c) are based upon a real distinction. Local and private bills create laws affecting only a single person, group of people or geographic area of the state, and either grant a unique benefit or power not available under a general law or absolve a legal responsibility.

In addition, the Constitution imposes several other limitations on the legislative process including those contained in Article 4, Section 69:

General appropriation bills shall contain only the appropriations to defray the ordinary expenses of the executive, legislative, and judicial departments of government; to pay interest on state bonds, and to support the common schools. All other appropriations shall be made by separate bills, each embracing but one subject. Legislation shall not be engrafted on the appropriation bills. but the same may proscribe the conditions on which the money may be drawn, and for what purpose paid.

(emphasis added).

The requirement that appropriation bills embrace but one subject was adopted to foreclose the practice of “log rolling” through general appropriation bills, a failed practice to circumvent, among other things, the Governor’s line-item veto power memorialized in Article 4, Section 73 of the Constitution and recently reaffirmed by the Mississippi Supreme Court in *Reeves v. Gunn*, 307 So.3d 436, 439-442 (Miss. 2020). Moreover, the prohibition on engrafting forecloses all arguments that a general law has been amended by implication through the adoption of an appropriations bill. In the words of the United States Supreme Court: “[w]ithout such an assurance, every appropriations measure would be pregnant with prospects of altering substantive legislation, repealing by implication any prior statute which might prohibit the expenditure. . . . [and] lead to the absurd result of requiring Members to review exhaustively the background of every authorization before voting on an appropriation. . . .” *TVA v. Hill*, 437 U.S. 153, 190 (1978).

With this Constitutional framework in mind, I turn to House Bill 1085. Sections 1 and 2 of the bill seek to amend provisions of the Mississippi Main Street Revitalization Grant Program, codified at Miss. Code § 57-78-1, *et seq.* Specifically, the first two sections of the bill transfer the administration of the grant program from the Mississippi Development Authority to the Mississippi Department of Archives and History and raise the maximum amount of funding available annually through a grant. Such proposed amendments to a general law are accomplished through a general bill, the manner in which the Mississippi Legislature handled HB 1085. Sections 3 through 5 of HB 1085 seek to amend two appropriations bills passed during the 2024 Legislative Session. Specifically, Sections 3 and 4 seek to amend Senate Bill 3056 (2024 Legislative Session), the appropriation bill for the Mississippi Development Authority, by repealing section 33 of that appropriation bill and reducing the total amount of funds appropriated to the agency by \$6,972,000. Section 5 of HB 1085 seeks to amend House Bill 1776 (2024 Legislative Session), the appropriation bill for the Mississippi Department of Archives and History, by increasing its appropriation by \$6,972,000 and making twenty (20) line-item appropriations to various “communities” totaling \$6,972,000.

In short, on the one hand, it is indisputable that part of House Bill 1085 is a general bill, seeking to amend the Mississippi Mainstreet Revitalization Grant Program. On the other hand, it is axiomatic that the remaining part of House Bill 1085 is an appropriations bill, seeking to amend the maximum sum of money that may be drawn from the state treasury by two separate state agencies, and conditioning the use of \$6,972,000 in state funds for twenty (20) particular projects. One need look no further than the short title of House Bill 1085 that uses the terms “APPROPRIATION” and “APPROPRIATED” twice each, or the text of Sections 3 through 5 of the bill containing more than thirty references to “appropriated,” “appropriation,” “funds authorized to be expended” and “expenditure of all funds appropriated” to identify it as an appropriations bill. So, it begs the Constitutional question: What type of bill is House Bill 1085? It looks, walks, quacks and has the characteristics of both a general bill and an appropriation bill. Is HB 1085 a new species of bill, akin to a duck-billed platypus that defies both logic and classification? Fortunately, because House Bill 1085 runs afoul of multiple provisions of the Constitution, such a mutant bill cannot be lawfully presented to the Office of the Governor for consideration, and such questions regarding bill-type need not be answered.

First, House Bill 1085 violates Article 4, Section 69 of the Constitution prohibiting the combination of general legislation and appropriations in a single bill. Again, Section 1 and 2 of HB 1085 seek to amend general law, while Sections 3 through 5 contain appropriations to two state agencies and make twenty (20) separate line-item appropriations. Thus, House Bill 1085 impermissibly engrafts general legislation and appropriations language in a single bill, a practice that clearly violates the Constitution.

Second, House Bill 1085 violates Article 4, Section 69 of the Constitution requiring appropriations that do not fund the “ordinary expenses” of the executive, legislative or judicial branch be made by separate bills. Again, Sections 3 and 4 address appropriations made to the Mississippi Development Authority, and Section 5 addresses appropriations made to the Mississippi Department of Archives and History. Expenses of neither the Mississippi Development Authority, nor the Mississippi Department of Archives and History constitute the “ordinary expenses” of the operations of the executive, legislative or judicial branches. Thus, Article 4, Section 69 plainly prohibits such appropriations to two separate state agencies be made in a single bill.

Third, because it is impossible to determine whether House Bill 1085 is a general bill or an appropriations bill, it has the potential to infringe on my clear Article 4, Section 73 authority to veto parts of an appropriation bill and approve parts of the same. Regrettably, the Constitution does not afford to me the authority to utilize the line-item veto when reviewing general bills. This is almost certainly why the Constitution prohibits combining general legislation and appropriations in a single bill. The hybrid nature of HB 1085 thus has the potential to create a conflict of authority in the event that I chose to exercise my line-item veto power with respect to any of the twenty (20) separate, distinct and complete appropriations contained in Section 5 of the bill. Thankfully, because HB 1085 has not been properly presented to me, this Constitutional question can be avoided.

Lastly, while I acknowledge the importance of vibrant downtowns and main street communities to the State, and I fully support making financial grants to such economic engines across Mississippi, I do not believe it is prudent to allow such grants to be administered by a marketing association whose dues-paying members are eligible to receive the grants. The Mississippi Main Street Association ("MMSA") is a non-profit organization comprised of approximately eighty-five Designated, Network and Associate Communities throughout the State. Mississippi Code § 57-78-5(1)(c) designates the MMSA as the "administrator" for the Mississippi Main Street Revitalization Grant Program, and subsection (1)(a)(i) of the statute makes "good-standing members of the MMSA" eligible for grants. To make matters worse, in House Bill 1085, only the highest level of dues-paying members of said marketing association received funding. Allowing an association to administer a grant program for which its members are eligible to apply is akin to the proverbial fox guarding the henhouse. At best, such a practice will always be shrouded with an appearance of impropriety, even if there is absolutely none. At worst and in the all too recent past, we have witnessed what can occur when taxpayer funds are handed over to poor decision making and even corruption by certain non-profit entities. While the Legislature is in the process of re-evaluating this grant program, I would encourage it to consider and address this potential conflict of interest.

In sum, while I have no doubt that the members of the Legislature that voted in favor of House Bill 1085 did so with the intention of facilitating grant funding to Mississippi's downtown and main street communities, a worthy goal that I share, because the form of HB 1085 violates multiple clear prohibitions contained in the Constitution, the bill has not been lawfully presented to me. Thus, both the plain text and spirit of the Constitution requires me to veto House Bill 1085.

Respectfully submitted,

TATE REEVES

GOVERNOR