

# PUBLICATION

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## Alabama Legislative Update – Week 7: Medicaid Reform Takes the Stage as the Battle for Education Continues

March 26, 2013

As the Alabama Legislature marked the halfway point of the 2013 Regular Session, progress continued to move at a slow pace where repercussions of the Alabama Accountability Act continue to linger in the halls of the Statehouse.

### Signed Into Law

#### *Law Enforcement Agencies Consolidated and Information Technology Position Established*

Governor Robert Bentley signed two pieces of legislation to increase government efficiency: one to consolidate more than 20 state law enforcement agencies and another to appoint an Information Technology (IT) secretary to streamline the state's IT systems.

The law enforcement consolidation bill, championed by Senate President Pro Tem Del Marsh, creates an Alabama State Law Enforcement Agency, divided into a Department of Public Safety and a State Bureau of Investigations and led by a cabinet-level secretary. Consolidation begins immediately, and is expected to be completed by January 1, 2015. Secretary of Homeland Security Spencer Collier is rumored to be the governor's choice to head the new agency.

While Governor Bentley hinted that he has someone in mind for IT secretary, he has not revealed his choice. A companion bill creating the Alabama Technology Authority has passed the Senate and is pending in the House.

### Medicaid Reform Takes Center Stage

#### *Legislators Hear Testimony on Medicaid Overhaul*

Proposed legislation would change Medicaid from a fee-for-service program to a program in which private-sector contractors develop care networks in up to eight regions of the state. The bill is sponsored by Senate Health Committee Chairman, Senator Greg Reed, and follows recommendations of the Alabama Medicaid Advisory Commission. House Health Committee Chairman, Representative Jim McClendon, will sponsor the House version.

The legislation, which is supported by Governor Bentley, would divide the state into eight regions for Medicaid delivery, known as regional care networks. These networks would gradually move compensation for providers from a fee-for-service model to a "capitation" model, which would pay providers based on health outcomes. Under the bill, the regions would be created by October 1, 2016, the beginning of the 2017 fiscal year. The bill includes language that would require regional care organizations to establish citizens' advisory councils. The chair of the council would sit on the organization's governing board. At least 60 percent of the chairs of the board positions would be reserved for providers.

Representatives from community groups and managed care companies told House and Senate members that the recommended reorganization is a major first step in Medicaid reform but also voiced concerns. Executives with the four patient care networks in the state asked the legislature to consider expanding their community health care efforts during any reorganization. Alabama Arise executive director Kimble Forrister said consumer advocacy groups are hoping "that consumers are involved at each step of" the legislative process. The Business Council of Alabama, Alabama Hospital Association, Alabama Nursing Home Association and Alabama Arise all support the legislation to varying degrees, although a spokesman for the Nursing Home Association expressed neutrality. Several speakers asked officials and lawmakers to keep transportation issues for Medicaid recipients in mind.

The joint committee adjourned without taking a vote. McClendon and Reed expect the bill to start moving through the chambers after legislators return from their spring break.

### *Medicaid Expansion Possible*

The chairman of the House Health Committee and member of the Governor's Medicaid Advisory Commission, Representative Jim McClendon, recently stated that proposed Medicaid reforms could position Alabama to expand Medicaid and accept billions of federal dollars that would accompany an expansion. McClendon said, "...until that happens, we can't consider (expansion)." Proponents of expansion have said it would be a mistake to walk away from the billions of dollars in federal money that is tied to expansion. According to a study by researchers at the University of Alabama at Birmingham, expanding Medicaid could result in 250,000 new recipients and an additional \$1 billion a year in federal spending for Alabama. The federal government will fund 100 percent of Medicaid expansion costs in 2014, 2015 and 2016. In 2017 and beyond, states will have to pay ten percent.

Governor Bentley has said he opposes expanding Medicaid in its current fee-for-service form. He has not said if he would agree to expand Medicaid if it is reconfigured.

## **Battle Over Education**

### *Alabama Accountability Act Back in Court*

After losing its first legal battle and seeing the controversial legislation signed into law by Governor Bentley, the Alabama Education Association (AEA) filed a new lawsuit in Montgomery Circuit Court. It alleges Republican members of a conference committee violated the Open Meetings Act and legislative operating rules when a conference committee added the tax credit program to an unrelated bill at the last minute. The Supreme Court ruled the previous challenge was premature because Governor Bentley had not signed the bill. AEA attorney James Anderson says the issue is now ripe.

Plaintiff attorneys had sought to serve papers to named legislators over spring break, arguing that they would not be participating in legislative activities during that period. In court filings, lawmakers maintain they cannot be served with legal documents while in session.

After initially granting the plaintiff attorneys' request, Montgomery Circuit Judge Gene Reese certified the question for the State Supreme Court, asking whether legislators have immunity during legislative session from civil lawsuits regarding legislative issues. He stayed the proceedings until the matter goes before the Alabama Supreme Court.

### *Common Core Likely Dead*

After the Senate Education Committee voted to carry over a bill to repeal Common Core indefinitely, the K-12 subcommittee of the House Education Policy Committee voted to kill the bill. The Common Core standards for learning in math and English were recommended by the National Governors Association. Bills were introduced in the House and Senate to prevent adoption of the standards. The bill will be sent back to the full committee with a negative recommendation. It can be resubmitted but is unlikely to pass.

## **Passed Committee**

### *Constitutional Amendment to Strengthen "Right to Work" Makes Progress*

SB 41, which proposes a constitutional amendment that, upon ratification by the voters, would affirm it is the public policy of the state of Alabama that the right of persons to work may not be denied nor diminished by an employer or a labor organization due to union membership or non-membership, received a favorable report from the House Committee on Commerce and Small Business. The bill is now in position on the House regular calendar to be taken up for consideration.

### *School Calendar Bill Has One More Year*

In 2012, lawmakers passed a bill that established parameters for when public schools could start and end for academic years 2012-2013 and 2013-2014. The guidelines provide that schools start no earlier than two weeks before Labor Day and end no later than the Friday before Memorial Day. The bill was supported largely by those who said an extended summer vacation season would increase tourism on the Gulf Coast and raise more tax money for the state's education fund. Supporters included Senator Trip Pittman, chair of the Senate Education Budget Committee. Pittman, however, has said he does not plan to push for the mandatory calendar beyond the 2013-2014 school year, when the guidelines expire.

A bill sponsored by Senator Bill Holtzclaw would allow school systems the ability to opt out. That legislation was so significantly changed in committee that the opt-out language was removed before the bill was passed out of committee. A House version of Holtzclaw's original bill was carried over.

As passed, the amended bill keeps language that allows schools to operate less than 180 days per year, if they extend the hours per day they are in school. Pittman said he can accept eliminating the mandatory calendar after 2013-2014 if the flexibility of hours remains.

### *Tax Exemption Bill Passes House Committee*

The House Ways and Means Education Committee approved a red-tape reduction bill that Alabama contractors say will help simplify the tax-exemption process for many public works jobs. The bill would require the Department of Revenue to issue certificates exempting sales and use taxes for eligible contractors and subcontractors who buy material that is used in certain public works projects. If the bill becomes law, it would take effect for contracts signed October 1 or later.

Road, highway and bridge projects would not be eligible, and only contractors and subcontractors licensed by the State Licensing Board for General Contractors would be eligible. Currently, government entities that are eligible for sales and use tax exemptions issue work orders for construction material, pay for the material and then get the exemption. Purchases currently are exempt only if the governmental entity designates the contractor as a purchasing agent and pays for the material itself, the bill's fiscal note says. The bill would extend the exemption directly to eligible contractors.

## **Executive Order**

### *Office of Fleet Management Created*

Governor Bentley issued an executive order to create an office of fleet management for state vehicles to maximize fuel efficiency and cost-effective maintenance for the state fleet. Legislation associated with the initiative is expected.

The Alabama Legislature now stands in recess as members have left Montgomery for spring break. The House of Representatives will convene at 1 p.m. on April 2 and Senate will convene at 1:30 p.m. the same day. The Alabama State Public Policy Team will continue to monitor all proposed and pending legislation and maintain a presence in the State House throughout the legislative session.