

PUBLICATION

Alabama Legislative Update: Republican Leadership Focuses on Priority Legislation

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The second week of the Alabama Legislature's Regular Session saw Republican leadership maintaining their momentum and passing priority legislation at a furious pace.

Senate Passes Legislation Guaranteeing Automatic Repayment of Alabama Trust Fund

With a vote 25-7, Alabama senators passed legislation that will mandate the automatic structured repayment of \$437 million borrowed from the Alabama Trust Fund (ATF) in September 2012. An amendment added in the Senate to HB 94 by Senator Bryan Taylor provides for an automatic annual appropriation to the ATF ensuring that each transfer from the ATF is repaid within 10 years or less. With the Taylor amendment, the bill does not require any further action by this legislature or future legislatures to ensure repayment. The bill calls for the \$437.4 million to be repaid no later than Sept. 30, 2026. HB 94 now goes back to the House of Representatives (House) for concurrence with the Senate version. Full passage is expected within the third week of session.

School Flexibility Bill Debate Takes Center Stage

After four hours of debate, the House voted 65-37 to approve a school flexibility bill that would allow school systems to seek waivers from state education policies and laws. Under the proposal, school systems would submit proposals or "flexibility plans" to the state. Waivers would have to be approved by both the local and state board of education and the state superintendent of education and public hearings must be held for each plan.

The bill says schools cannot force employees and new hires to "involuntarily relinquish" the rights and privileges of tenure or non-probationary status. However, employees could choose to waive those protections under the bill. Representative Chad Fincher, who sponsored the legislation, said an employee might, for example, give up tenure in exchange for higher pay.

The bill prohibits school systems from seeking waivers on ethics laws, requirements on academic reporting, requirements of the State Minimum Salary Schedule and other mandatory laws. School systems are also directed under the bill to assure that proposals maintain a "commitment to state standards, assessments, and academic rigor." The bill would allow school systems to seek a waiver from state bid law.

The bill now moves to the Senate, where a different version of a similar bill is making progress. The day before the House passed its version, the Senate Education Committee approved its own school flexibility bill, by a vote of 9-0, after adding amendments sought by the Alabama Education Association (AEA) to protect the current tenure process and to specify that the legislation cannot be used to create charter schools. The amendments passed 5-4. The Governor has indicated his full support for the legislature's school flexibility efforts.

Red Tape Reduction Act Unanimously Passes House

The House voted 92-0 for the "Red Tape Reduction Act," which would give businesses an opportunity to challenge a regulation which would adversely affect their business. The state agency would then have to prepare an economic analysis of how much the new regulation would cost the Alabama economy and how it would positively affect Alabama public as a whole. A legislative council would hear both sides and then would decide whether or not that state regulation would be implemented or not. The Red Tape Reduction Act would also publish new regulations on a web site in real time instead of the current process of announcements in the Alabama Administrative Monthly. The Act will apply to future regulations and does not retroactively apply to administrative law already in place. The bill now moves to the Senate.

House Passes Bill to Improve Career Technical Programs

The House passed the "21st Century Workforce Act" by a vote of 93-1. This legislation approves the sale of \$50 million in bonds to invest in high school career technical programs. The funds will be used to help Alabama high schools upgrade career technical programs and prepare students for technical careers. The bill now goes to the Senate.

Senate Approves Move to Merge Agencies and Operations

The Senate passed legislation to merge state law enforcement programs into a new agency. The structure of state government traditionally stays the same from one administration to the next, but government consolidation is a priority of the Senate's Republican leadership. The Senate voted 31-0 for a bill, supported by Governor Robert Bentley that will merge 14 police-type groups into a new Alabama State Law Enforcement Agency. President Pro Tem Del Marsh, who sponsored the law enforcement legislation, said it would save \$30 million annually by coordinating communications, accounting and other support services.

The Senate also passed, by the same margin, a bill that would consolidate information technology operations of all state agencies under an appointed board, the Alabama Technology Authority. The Authority could shift responsibilities from state employees to private companies who would compete for the work. A study done by Auburn University at Montgomery estimated state agencies spend \$317 million annually on IT operations, and it forecast annual savings at \$32 million to \$64 million, based on experiences in similar states. A companion bill setting up a secretary of information technology in the Governor's cabinet was approved 32-0. Legislators expect the Governor's Homeland Security Director, former state Representative Spencer Collier, to be appointed. All three bills now go to the House for consideration.

Senate Passes Economic Development Legislation

Senators passed SB 96, which would authorize a municipality to designate certain real property as a Major 21st Century Manufacturing Zone. This bill would provide requirements to qualify as a zone and provide that projects within the zone could be financed with ad valorem tax increments.

ADEM Budget and Proposed Permit Fee Increase

Governor Bentley's proposed 2013-2014 general fund budget decreases the Alabama Department of Environmental Management (ADEM) appropriation from \$3.2 million in FY 2013 to \$558,048 in FY 2014. ADEM's statutory authority only allows the agency to charge fees to cover the cost of issuing permits; however, there are other ADEM programs funded by general fund appropriations. On February 1, 2013, ADEM issued a notice for a proposed permit fee increase of 50 percent for the purpose of offsetting general fund budget shortfalls but many questions remain on what the impact of the decrease in state general fund appropriations will have on business and industry, especially in light of inadequate federal EPA funding for ADEM.

Proposal to Reduce the Corporate Income Tax Rate Considered

Senator Paul Sanford addressed the Senate Finance and Taxation-Education Committee this week to propose a constitutional amendment, which would reduce the state's corporate income tax rate from 6.5 percent to 5.0 percent. That rate reduction will reduce income tax receipts by an estimated \$97.5 million annually.

An AEA spokesman argued that Alabama is one of only a few states that offer the federal income tax deduction and that deduction makes Alabama's effective tax rate range between 3 percent to 4 percent. The Committee chair, Senator Trip Pittman, urged the sponsor and AEA to study and report the consequences of reducing or eliminating the federal income tax deduction to offset the revenue lost from the proposed rate reduction.

Bill to Carry Forward Capital Loss Passes Committee

The Finance & Taxation-Education Committee favorably reported SB 156, to provide that resident taxpayers who incur a capital loss may deduct up to \$3,000 per year and carry the balance forward until the capital loss is fully exhausted. Federal income taxes are treated this way, but in Alabama, a resident who incurs a capital loss may deduct the loss only in the year in which the loss is incurred. The bill now goes to the full Senate for consideration.

Throughout this legislative session, the Alabama State Public Policy Team will monitor all proposed and pending legislation and maintain a presence in the State House.