

PUBLICATION

Alabama Legislative Update: Alabama Legislature Begins 2013 Regular Session

February 11, 2012

On February 5, the Alabama Legislature convened its 2013 Regular Session before listening as Governor Robert Bentley delivered his third State of the State address to a joint session. Over the next two days, legislative leaders, supported by Republican supermajorities in both houses, wasted no time in pushing their agendas forward.

Governor Bentley Delivers The State of The State Address

For the most part, Governor Robert Bentley's legislative priorities mirror those of legislative leaders. Arguably, the most controversial portion of the State of the State address came when the Governor suggested a 2.5 percent pay increase for teachers and education support workers, a cost estimated at nearly \$100 million. The proposal was met with mixed reactions from lawmakers. Some legislators replied that the state simply cannot afford it or that repaying our debt should be the first priority. Democrat legislators felt the proposed raise was far too low. Still others believe that unless all state employees receive a raise, teachers and education workers should not either. Speaker of the House Mike Hubbard, said legislators want to make sure a 2.5 percent raise is sustainable in future years before making a decision. Chairmen of the legislative budget committees suggested the possibility of 1 to 2 percent pay raises for education employees was likely, but have also said they want to pay back the state's debt to the Rainy Day Account in the Education Trust Fund. The state still owes \$423 million to that account.

The Governor also called for an expansion of voluntary pre-kindergarten for four-year-olds in the state, although he did not specify an amount. Legislative leaders predicted such a proposal will not face much opposition and has wide legislative support. The Governor committed to continue funding successful programs such as the Alabama Reading Initiative, the Alabama Math, Science and Technology Initiative, ACCESS, the state's online distance learning program and programs to support Advanced Placement classes.

While the Governor applauded the 26,000 new jobs created in the last two years, he also praised efforts to downsize state government, which now has 4,000 fewer state employees than before. He also commended a statewide effort to bring education and business leaders together to train a higher-skilled workforce through the College and Career Ready Task Force.

First Bill Passes House; Requires Repayment To Alabama Trust Fund

The Speaker had stated that the first bill to pass the House would be legislation requiring repayment of the \$437 million state officials borrowed in September 2012 from the Alabama Trust Fund to compensate for the General Fund's shortfalls. The Governor echoed this priority by saying that he wanted the "first bill" on his desk to be a bill to repay the borrowed money. On the third day of session, HB 94 passed the House by a vote of 80-19, mandating the repayment of the \$437 million borrowed from the Alabama Trust Fund while also providing a structure for the payback process. This bill now moves to the Senate.

House Republican Caucus Agenda Items Pass Committees In First Week

Every bill included in the House Republican Caucus Agenda, "We Dare Defend Our Rights", passed out of committee and has been sent to the full House for consideration. A few of the most significant bills were:

- **The Local Control School Flexibility Act** - In his State of the State address, the Governor lent his support to two Republican-backed bills that would allow the State Department of Education to step in and manage school systems that are failing and would give flexibility to school systems on how they comply with state education laws, also known as the Local Control School Flexibility Act. The bills filed in the House and Senate would give schools the ability to request flexibility from rules or regulations in order to improve student outcomes. The flexibility could relate to curriculum, budgets, staffing, personnel, scheduling and other matters. This legislation sets up an inevitable battle between the Governor and legislative leaders and the Alabama Education Association (AEA), the union that killed the Governor's charter school bill last year. AEA Executive Secretary Henry Mabry said the school flexibility proposals being pushed by GOP legislators are charter school bills in disguise.

On Wednesday, the Senate Education Committee and House Education Policy Committee took up SB 54 and HB 84, respectively. The Senate committee held a public hearing, where testimony went on for over an hour. The Senate committee, however, took no action. It is expected to vote on the measure at its next meeting. Following a similar public hearing in the House committee, amendments were added to the bill related to tenure, salary and ethics laws. HB 84 then passed the committee and moves to the full House for consideration.

- **Red Tape Reduction Act** - HB 101 passed the House State Government Committee and would require each state agency to prepare an economic impact analysis prior to the adoption of any proposed regulation that could have an adverse impact on small businesses. Specifically, if passed, HB 101 would:
 - Require any agency, other than those strictly involved in licensing, to file a Business Economic Impact Statement with the Joint Committee on Administrative Regulation Review prior to a proposed regulation's adoption, if the agency receives a complaint that the regulation might negatively impact a business
 - Require all existing rules and regulations to be reviewed every five years in order to determine whether they should be amended, rescinded or remain unchanged.
 - Require that information related to proposed and existing regulation reviews also be placed on agency websites in order to allow for public access

It now moves to the full House for a vote.

- **The 21st Century Workforce Act** - HB 102 passed out of the House Education Ways and Means Committee. If passed, the bill would strengthen the state's investment in career technical education by providing equipment and technology for training in various fields.
- **The Religious Liberty Act** - HB 108 passed out of the House Insurance Committee and would allow certain employers to opt out of specific Affordable Care Act mandates requiring employers to provide insurance coverage for contraceptives.

Bill To Consolidate State Law Enforcement Agencies

After presenting competing plans for agency consolidation, President Pro Tem Del Marsh and the Governor reached an agreement. Senator Marsh introduced a bill that would reorganize the programs into a Cabinet-level agency called the Alabama State Law Enforcement Agency. It would have two units, the Department of Public Safety (most of the existing Department of Public Safety, the Marine Police, Public Service Commission

and the Revenue Department law enforcement) and the State Bureau of Investigations (the Alabama Bureau of Investigation, the Alabama Criminal Justice Information Center, and the state liquor agency, Forestry Commission and Agriculture Department law enforcement units). The Secretary of the Alabama State Law Enforcement Agency would serve as the Governor's homeland security adviser. Functions of the State Department of Homeland Security would be transferred to the Secretary's office. Senate Democrats asked for more time to study the bills before a vote was called and the Senate adjourned.

"Guns To Work" Debate Revived

SB 129, an omnibus gun rights bill, was introduced on Tuesday and was placed on the agenda in the Senate Business and Labor Committee for full consideration and passage. The bill proposes, among other things, that "no employer may prohibit the otherwise lawful possession, transportation or storage of firearms or ammunition that is kept out of sight within the locked or attended private means of conveyance of an invitee who is otherwise permitted to operate or park the conveyance on the property." Similar bills, also known as "parking lot bills" have been enacted in another states.

After both law enforcement and business groups raised concerns with the bill, the committee referred the proposed legislation to a "working group" charged with reporting back to the full committee.

The bill revives a highly-charged debate between business owners, who maintain that their property rights allow them to prohibit employees' possession of a firearm on their premises, and gun owners, who believe their Second Amendment rights are being infringed upon. Sources say the Speaker has no intention of letting SB 129 get any traction in the House.

State Contingency Contracts with Private Attorneys

The Transparency in Private Attorney Contracts Act (TiPAC), SB 134 and HB 227, would establish a transparent and accountable process for entering into a contingency fee contract with attorneys representing the state. The bills were assigned to the Judiciary Committees in their respective houses and are expected to be on agendas within the next several weeks.

Finance Director Released Budget Projections

Legislators heard estimated revenue projections from the Legislative Fiscal Office and Finance Director Marquita Davis. While budget projections indicate there could be more money in the Education Trust Fund than in previous years -- as much as \$280 million in additional funds -- the anemic General Fund will remain, at best, stagnant. The \$1.6 billion General Fund faces an estimated shortfall of \$28 million in FY2014. Legislators also learned that Medicaid, the largest recipient of General Fund dollars, and the Department of Corrections, the second largest, take in a combined 56 percent of the state's General Fund.

What's Next

When legislators return Tuesday, the House is expected to consider a constitutional amendment requiring that restrictions on firearms pass a "strict scrutiny" judicial standard. The Senate will continue debate on the consolidation bills.

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. As legislators begin their work in the 2013 Regular Session, we will continue working to protect and promote our clients' interests.

