

PUBLICATION

Alabama Legislative Update - Week 13: Sprinting to the Finish

May 14, 2012

The Alabama Legislature saved some of its most important work for the last day of the regular session, including approval of both budgets and final action on the immigration bill. Plans for the thirtieth and final day to be Monday, May 21, were adjusted this week. The House of Representatives and Senate will now convene on Wednesday, May 16, before adjourning *sine die*, that is, without assigning a day for future meeting. The following day, many expect Governor Bentley to call legislators into special session to address the politically volatile issue of reapportionment.

Governor Signs Electronic Single Point Filing Bill

Governor Bentley signed legislation designed to make it easier for businesses to handle tax filings. The law will eliminate the need for any business with multiple locations to file tax returns in multiple cities and counties. Instead, they can use a single filing system to handle all sales, use and rental tax returns and make their payments. The state Department of Revenue will administer the system and distribute the filings and payments to the appropriate cities and counties. The Governor said using the system is free for businesses and for cities and counties. The bill passed the Legislature without a dissenting vote and has been hailed as the most pro-business initiative this session.

Senate Action On Immigration Law Stalls

The Alabama Senate delayed action on changes to the state's immigration law as sponsors of the law disagreed over the section dealing with E-Verify and penalties for companies that hire illegal immigrants. Senator Scott Beason, who introduced a substitute immigration law, said the disagreement is over Section 15, which is the section dealing with E-Verify. Beason said House members want to alter that section and he wants to leave it alone. Beason said courts have not blocked enforcement of that section, and he would like to leave it untouched in case the courts toss another employment section. House bill sponsor Representative Micky Hammon said there are "necessary" changes requested in that section that would give judges discretion over any imposed penalties, so that the accidental hiring of an illegal alien is not treated the same as an intentional hiring. He expressed frustration that the Senate has not moved on any version of changes to the law. Legislators expect lengthy debate and a vote on the final intense day of the 2012 legislative session.

Dueling Budgets Pass Both Houses; Heading To Conference

The House of Representatives approved an Education Trust Fund budget Thursday that could cut up to \$141 million from last year's budget. Because the Senate version differs from the House one, the budget is headed to a conference committee. If passed in its current form, the 2013 education budget would reduce funding by about 2.5 percent over the current budget. The Education Trust Fund's reduced resources are due in part to the Rolling Reserve Act, which sets money that comes in over a spending cap on the Education Trust Fund to pay off a loan from the Alabama Trust Fund that helped prevent education trust fund proration in 2009. The cap is expected to put approximately \$190 million toward the repayment. Senator Trip Pittman (R-Montrose), the chairman of the Senate's Education Trust Fund budget committee, said they would work on resolving changes in time to allow a final vote by the House and Senate on Wednesday, the final day of the 2012 regular session. Even then, if Governor Bentley didn't like the budget, he could kill it simply by refusing to sign it.

In addition, the Senate approved a \$1.4 billion General Fund budget after adding an amendment moving hundreds of millions of dollars from the Department of Corrections to the Alabama Medicaid Agency. The budget passed 21 to 10. With conditional appropriations removed, the 2013 General Fund budget is \$327.8 million less than the current, prorated 2012 budget, a cut of 18.9 percent. The cuts will likely lead to job reductions and possibly layoffs, although the extent of those is not clear. As passed out of committee, lawmakers counted on voters approving a constitutional amendment that would approve a transfer of funds from the Alabama Trust Fund, a trust created from Alabama's oil and gas royalties. That proposed budget called for \$184 million to be moved out of the Alabama Trust into the General Fund to make up a Medicaid deficit of nearly \$200 million. The budget amendment, however, shifts that deficit from Medicaid to Corrections, which would then get Alabama Trust Fund money if voters approved the constitutional amendment, which only provides one-time money. That budget, which funds most non-education programs in the state, gets its revenue from about three dozen sources, most of which post flat growth. Medicaid funding, while matched at a two-to-one rate by the federal government, has consumed an ever-larger percentage of the General Fund each year. Governor Bentley and Don Williamson, head of a task force looking at Medicaid, have said Medicaid needs at least \$602 million to offer a minimum level of care. Even at that level, Williamson said, reimbursements to physicians for Medicaid would likely be reduced, which could reduce access for Medicaid recipients. Bentley has threatened to veto a General Fund with less than \$602 million for Medicaid. Like the Education Budget, the General Fund is all but certain to go to a conference committee on Wednesday, so both houses can approve final passage.

Jefferson County Occupational Tax Bill Goes To House

The Senate passed a bill that would allow the Jefferson County Commission to raise as much as \$62 million a year in occupational taxes or, in coming years, sales taxes. The tax would apply to architects, lawyers, doctors, engineers and others who pay state or county license taxes, but under the bill they could deduct those taxes from their owed occupational tax. The bill also would let the commission impose a sales tax of as much as one cent, but only after Jefferson County's existing one-cent sales tax for education expires after some school bonds are retired, which is expected to happen 10 to 15 years from now. The House County and Municipal Government Committee, however, voted 7-4 to rewrite the plan to exempt people who live outside the county from paying the occupational tax. Opponents of the amendment excluding Jefferson County workers who live outside the county said it would be unconstitutional, since it would create two separate classes of workers. The bill could be debated in the House on the final day, when representatives could kill the bill, pass the bill with the amendment, pass the bill without the amendment or pass it with some other change.

House Voted To Increase Court Costs

The House voted to raise the cost of going to court in civil and criminal cases to help the state's cash-strapped court system. The 65-29 vote came after a tense debate. Democrats, who said they were concerned higher court fees would hurt poor citizens, tried to derail the vote but were ultimately unsuccessful. Alabama Chief Justice Chuck Malone stated the Unified Judicial System, which he said now employs 1,871 people, could lose 500 employees to layoffs unless the bill becomes law, if proposed cuts in General Fund spending for the system next year become reality. Malone said local courts are understaffed currently and the layoffs would further delay jury trials and clog jails. The legislation would raise court costs for a traffic ticket by \$25. Costs for filing a civil lawsuit would go up \$45 and the court fee for a criminal case would go up \$40. The cost of going to small claims court would go up \$15. The bill now goes to the Senate who could take action on it this Wednesday.

Governor Expected To Sign Incentive Bill For Impoverished Areas

Governor Bentley is expected to sign a bill authorizing tax credits on the state's share of certain taxes for investments in qualified community businesses in low-income communities. The bill caps the credit at \$10 million per each qualified active low-income community business, sets an aggregate cap of \$20 million annually, and limits the taxpayer's credit to not more than the taxpayer's state tax liability.

Bill To Fix Gross Income Discrepancy On The Way To Governor

The Legislature passed a bill to address a longstanding conflict between an Alabama tax statute and a Department of Revenue regulation governing the tax treatment of income earned by resident owners/partners/members of Sub-S corporations, partnerships and LLCs that do business in multiple states. The bill puts into statute a Department of Revenue regulation directing Alabama resident owners and partners of such pass-through entities to: 1) report their respective shares of the entity's income earned world-wide; 2) provide an income tax credit for their shares of entity-level income-like taxes paid to other states; and 3) adds a provision that provides a 50 percent credit for taxes paid to foreign countries.

Incentives for New or Expanding Corporations Blocked

Senators were short of the three-fifths majority needed to bring up for full debate a plan that would allow companies building new or expanding facilities in Alabama to retain up to 90 percent of state income taxes withheld from pay for new employees. Senator Phil Williams, who sponsored the bill, promised to revive the bill after the budget passes or in a special session that is expected to be announced by Governor Bentley. The Governor was openly disappointed that this initiative, characterized as one of his top priorities, failed.

Legislature Passes Insurance Fraud

The Senate approved a House bill that would define insurance fraud and set it as either a Class B or Class C felony, depending on the extent of the fraud. Consumers filing fraudulent claims, insurance companies accepting policies they could not pay and others seeking to game the insurance market could be prosecuted under the measure. The bill now goes to Governor Bentley, who is expected to sign.

Insurance Package Clears House

Four bills aimed at changing the way Alabamians insure their homes passed the House. One of the bills, the Property Insurance Clarity Act, would require insurers to report how many policies they write, how much they charge for premiums, and how much they lose because of claims. One of the other passed bills would allow homeowners to create "catastrophe savings accounts," with tax breaks similar to those of retirement accounts, which could be used to help pay for storm damage. The third bill would give tax credits to insurance companies that write policies in particular areas of south Alabama. Finally, the fourth bill would allow insurers based in Alabama, including Alfa, to make new, potentially more profitable, out-of-state investments. The bills have already passed the Senate and now go to the Governor for his signature.

House Approves State Pension Reform

The House approved a bill to cut off the state pensions of public employees who commit crimes related to their government position. Public employees, active or retired, who are convicted of crimes related to their public position would lose the state-paid portion of their pensions and only receive the money they paid into the pension system (if they have been retired long enough to receive the money they paid into the system). Crimes unrelated to the public employees' government position would have no effect on their pensions under the bill. The bill was approved by the Senate earlier this year and now goes to the Governor for consideration. The House also passed a bill to overhaul the pension system, allowing new state employees

to take home more money and pay less into their retirement. The contribution rate of most state employees would be reduced from 7.5 percent to 6 percent. Though under the bill, most state employees would have to work until the age of 62 to begin receiving benefits, and they would receive smaller benefits. The bill would only affect new hires (i.e. state employees hired after January 1, 2013). The bill was approved by the Senate earlier this year and now goes to the Governor for his approval, which is expected.

Unemployment Compensation Reform Now Law

Under a new law, violators of unemployment compensation fraud will be subject to criminal penalties, disqualification for future benefits, and repayment of fraudulently received benefits. Individuals who receive fraudulent benefits in amounts of \$2,500 or greater will be guilty of a Class "B" felony. Fraud in amounts less than \$2,500 will be prosecuted as Class "C" felonies, and fraud amounts less than \$500 will be Class "A" misdemeanors. Violators will also be subject to disqualification of future unemployment benefits. A first offense will result in 52 weeks of disqualification. Subsequent offenses will prevent violators from receiving unemployment compensation for 104 weeks. Violators will also be required to repay the fraudulently received benefits, plus interest, and will not be eligible for future benefits until the debt is paid. The Alabama Department of Industrial Relations estimates that there were more than 12,000 cases of unemployment compensation fraud in fiscal year 2011, equaling more than \$15 million. Moreover, individuals currently have a one-week waiting period after 13 weeks of unemployment payments. Another bill that became an act this week, however, imposes a one-week waiting period after filing for unemployment benefits.

Legislature Overrides Governor's Veto On Statewide School Calendar

The Alabama Legislature voted to override Governor Bentley's veto of a bill that changes the school start date for many school children. Bentley had added an executive amendment that would have given local school systems the choice to opt out of the later school start date. The House and Senate voted to pass the bill, despite the governor's veto. Since lawmakers overrode the governor's veto, the bill automatically becomes law. Under the new law, the number of days can be reduced if students are in class for extra time each day.

Gourmet Bottle Bill Passes House

The House on Wednesday, by a 58-34 vote, passed SB 294, which would raise the volume restrictions of beer containers from 16 ounces to 25.4 ounces. Alabama is the only state in the nation with a 16-ounce container restriction. The bill now goes to Governor Bentley for signature.

Charter School Legislation Likely Dead This Session

A House committee carried over action on the Education Options Act this morning, effectively killing a charter school proposal that was a priority for the governor and Republican leadership in the House and Senate. Representative Phil Williams, the sponsor of a separate House version of the bill, said the version passed by the Senate placed too many restrictions on creating charters and was not worth passing.

Insurance Coverage for Autism Treatment Awaits Signature

The House unanimously passed legislation aimed at getting more insurance coverage for autism treatment. The legislation requires insurance companies to offer coverage for autism but allows businesses to choose whether to offer the coverage as part of their insurance options for employees. The bill now goes to the Governor for his signature.

Texting While Driving Now A Crime

According to a bill signed into law by Governor Bentley, as of August 1, 2012 it will be a crime to send text messages, instant messages or e-mails while driving. The law does not prohibit dialing a phone while driving.

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.