

PUBLICATION

Alabama Legislative Update - 2012 Regular Session Recap

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During the 2012 Regular Session of the Alabama Legislature, more than 300 bills were enacted into laws. Below is a list of several bills, now acts, which are regarded as some of the most significant of the session. For a more exhaustive list or for further information or clarification, please do not hesitate to Baker Donelson.

Legislation Enacted During the Alabama Legislature's 2012 Regular Session

Incentives For Coal Mining Industry, House Bill 144

- Enhances the state's ability to recruit coal mining companies by allowing them to qualify for certain existing tax incentives currently available to manufacturers and other businesses.

"Heroes for Hire" Tax Credit Act, House Bill 152

- Offers Alabama businesses a \$2,000 tax credit for hiring a veteran recently returned from war.

Aviation and Aerospace Economic Incentives, House Bill 39

- Provides for a special tax incentive allowing Alabama to better compete in targeting aircraft manufacturers and aircraft parts manufacturers for economic development.

Alabama Film Incentive Enhancement Act, House Bill 243

- Expands Alabama's film and television production incentive cap from \$10 million to \$15 million, making Alabama more competitive in the industry.
- Doubles the amount productions can spend and count toward tax incentive rebates from \$10 million to \$20 million.

Alabama Data Processing Center Economic Incentive Enhancement Act, House Bill 154

- Expands the scope of certain tax incentives in order to focus on recruiting more data processing centers to Alabama.

Spurring Investment in Struggling Communities, House Bill 257

- Encourages economic investment and job growth in low-income areas by leveraging available federal tax incentives with new state tax incentive offerings.
- In exchange for their investments in qualified businesses and projects located in low-income downtown areas throughout Alabama, the state will offer investors a future tax credit.
- Investors can claim a 50 percent graduated tax credit over the course of seven years for investments up to \$240 million. The credit is zero for the first year and eight percent for each of the next five years, then ten percent the seventh year.

Flexible Capital Tax Credits for Job Creators, House Bill 140

- Allows new and expanding businesses that spend at least \$100 million on capital improvements and hire at least 100 people to delay the tax credit for up to four years.
- New or expanding companies typically qualify for an income tax credit for five percent of their investment each year for 20 years. This law allows a company that invests \$400 million to carry forward the credit for an additional four years. The credit can be held for three years for a \$300 million investment, two years for \$200 million and one year for \$100 million.

Public Database of Bids and Contract Proposals Involving Taxpayer Money, Senate Bill 30

- Requires the state comptroller to create and maintain a public database on the www.Open.Alabama.gov website on which bids or contract proposals involving state funds or federal grant money must be posted.

Legislative Pay Raise Repeal and Compensation Reform, House Bill 276

- Repeals the 2007 pay raise and allows voters to determine legislative pay at the ballot box.
- The plan put before the voters would tie legislative pay to median household income, meaning it would increase or decrease based on how Alabamians are doing economically.
- The amendment also repeals automatic cost-of-living adjustments passed in 2007, and makes it illegal for lawmakers to raise their own pay ever again.

Pension Reform, Senate Bill 388

- Sets a minimum retirement age of 62 for most employees and 56 for law enforcement.
- These changes do not affect current employees or retirees. New rules will only affect new employees hired beginning in 2013.

Constitutional Reform, House Bills 357, 358 and 359

- House Bill 357 updates and modernizes language in Article 12 of the 1901 Alabama Constitution dealing with private corporations, railroads and canals.
- House Bill 358 updates and modernizes Article 13 dealing with banks and banking law.
- House Bill 359 provides that the failure to register will not impair the validity of a foreign corporation's contracts or actions.

Coastal Insurance Reform

- House Bill 166 – the "Homeowners Bill of Rights Act" requires insurance companies to be transparent about exactly what coverage is offered in their policies.
- House Bill 323 – gives the state more tools to fight insurance fraud by increasing penalties.
- Senate Bill 230 – provides a limited premium tax credit for insurance companies that depopulate the insurance "wind pool"
- Senate Bill 227 – allows consumers to set up a catastrophe savings account to pay for deductibles on primary residences.
- Senate Bill 210 – requires the Alabama Department of Insurance to keep and publish a historical record of insurance rates to ensure transparency for consumers.

Unemployment Compensation Reform, House Bill 72, Senate Bill 300 and House Bill 285

- House Bill 72 provides that those caught defrauding the unemployment compensation fund of more than \$2,500 will be guilty of a Class B felony. Less than \$2,500 constitutes a Class B felony, and less than \$500 is a Class A misdemeanor. Those who cheat the system will also be disqualified from receiving any unemployment benefits for a 52-week period, and subsequent offenses will be punished by a 104-week disqualification. They will also be forced to repay the fraudulently-received benefits along with an interest penalty to the Alabama Department of Industrial Relations.
- Senate Bill 300 establishes a one-week waiting period during the first compensable week of unemployment compensation benefits for individuals seeking unemployment benefits.
- House Bill 285 provides that individuals will be able to receive benefits for 26 consecutive weeks beginning with the second compensable week.

Streamlined Tax Filing for Businesses, Senate Bill 549

- Streamlines the process for businesses filing tax returns with cities and counties across the state.
- The law creates an electronic single point of filing system that will be made available for filing and remitting state and local sales, use and rental and lease taxes.
- The system, known as ONE SPOT (Optional Network Election for Single Point Online Transactions) will be administered by the Alabama Department of Revenue and available for use by both taxpayers and Alabama municipalities and counties at no cost. The system must be operational in time for returns and payments due in tax periods that begin after Sept. 30, 2013.

"TTYL" Texting While Driving Ban, House Bill 2

- Prohibits driving a vehicle on an Alabama highway or street while using a wireless telecommunication device to write, send or read a text-based communication, including email.

Reorganizing ALDOT, House Bills 355 and 402

- House Bill 355 alters the organizational structure of the Alabama Department of Transportation by giving the Transportation Director the authority to appoint three deputy directors to help oversee the operations of the Department. House Bill 402 would specifically change the position of Chief Engineer from a merit system position to an appointed position.

Revisions to Alabama's Immigration Law, House Bill 658

- Although every employer must be enrolled in e-Verify, contractors and subcontractors no longer have to submit affidavits attesting to their enrollment and swearing they are not employing unauthorized aliens.
- Revises penalties for non-compliance for contractors and subcontractors.
- Increases monitoring by Alabama Department of Homeland Security.
- Adds exemption for providing pastoral or religious care.

Discrepancy Between Alabama Department of Revenue Regulation and Statute Resolved, House Bill 286

- Requires taxpayers to recognize their share of the entity's income from all sources worldwide, with the taxpayer receiving credits for 100 percent of entity-level, income-like taxes paid to other states and receiving a 50 percent credit for income taxes paid to foreign countries, to avoid double taxation on the same income.

Road Builder Liability Modified, Senate Bill 139

- Provides additional liability protection for road builders without shifting responsibility to counties.
- Limits the liability of a road contractor for physical injury, property damage, or death for work performed on a highway, road, bridge or street on behalf of the Alabama Department of Transportation, the county or local government unless evidence shows that an incident was caused by the contractor's performance or inability to recognize a dangerous condition.
- Requires contractors notify the Department of Transportation if contractor discovers before or during construction that the plans and specifications could result in a potentially dangerous condition.

Honored Foreign Money Judgments, Senate Bill 348

- Foreign money judgments will be honored in Alabama as long as the issuing court was competent, had jurisdiction and gave the parties an opportunity to defend themselves.
- Provides a simple court procedure for enforcing foreign country money judgments, addresses burdens of proof of the parties not covered by current law, established grounds for denying recognition of foreign-country money judgments and established a statute of limitations for recognition actions.

Certificate Of Need Process Streamlined, House Bill 370

- CON Appeals go directly to the Court of Civil Appeals rather than Circuit Court.
- Law will apply to future CON applications.

Alabama Tourism Attraction Incentive Act, House Bill 599

- Allows a county, municipality or public industrial authority to abate certain property taxes and construction-related transaction taxes for tourism destination attractions. These attractions may also qualify for capital credits.

Throughout this legislative session, the Alabama State Public Policy Team has monitored all proposed and pending legislation and maintained a presence in the State House. As legislators conclude their 2012 work and begin to lay the foundation for the 2013 regular session, we will continue working to protect and promote our clients' interests.