

# PUBLICATION

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## Alabama Legislative Update – Week 4: Multiple Bills Passed and On the Way to Governor Bentley's Desk

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### Alabama Accountability Act

On the afternoon of February 28, the House of Representatives and Senate sent differing versions of the Local Control School Flexibility Bill to conference committee. A few hours later, the conference committee reported a very different bill, one which included tax credits for families in "failing schools" as well as the flexibility measures included in prior versions. According to the revised bill, which was renamed the Alabama Accountability Act of 2013, parents of children in failing schools could receive an income tax credit equal to 80 percent of the average annual state cost for attendance of a public K-12 student to offset the cost of private school or a transfer to another public school. A failing school is described as one which is in the bottom ten percent of statewide reading and math scores, has earned three consecutive Ds or an F on upcoming school report cards or is designated by the Department of Education as failing. Another provision would help families who do not earn enough to receive a tax credit and whose children are in failing schools. It would call for the State Department of Revenue to set up a nonprofit organization to provide scholarships to students in failing schools to attend private schools or non-failing public schools. Businesses and individuals could receive income tax credits for contributing to the organization. Businesses could receive tax credits equal to 50 percent of their donation, up to 50 percent of their tax liability. Individuals could receive tax credits equal to 100 percent of their donation, up to 50 percent of their tax liability. The bill would also give failing schools the ability to offer incentives or alternate employment tracks to teachers who waive tenure protections. The legislation increased from eight pages to about 27 pages. State Superintendent Tommy Bice and the Alabama Association of School Boards withdrew their support from the legislation after the change. The Alabama Accountability Act of 2013 passed out of the conference committee (4-2), passed the House (51-26), and then passed the Senate (22-11). Governor Robert Bentley is expected to sign the bill next week.

### Matching Funds for County Road and Bridge Projects

The House and Senate passed bills intended to help some counties obtain matching funds to attract federal money to pay for bridge and road projects. The bills would allow the Alabama Highway Finance Corporation to issue up to \$25 million in bonds that could be used for the matching funds. The Alabama Highway Finance Corporation is a public corporation established by the legislature to sell bonds for road projects. The \$25 million will be used to fund the Rural Assistance Match Program (RAMP). Twenty two counties opted to participate in RAMP. They can receive up to \$1 million from the state to obtain up to \$4 million in federal funds for bridge and road projects. As a tradeoff, those counties will not take part in the next round of competition for dollars under the Alabama Transportation Rehabilitation and Improvement Program (ATRIP).

Governor Bentley announced the creation of ATRIP in March 2012. Over a three-year period, up to \$1 billion in federal highway funds will be distributed through ATRIP, according to the Alabama Department of Transportation. ATRIP provides federal funds for up to 80 percent of the cost of road and bridge projects and is funded by GARVEE bonds, grant anticipation revenue vehicles, which use as collateral the future federal highway money the state is expected to receive. A total of 439 projects have been approved under ATRIP, with a total cost of \$613 million. Under the plan, counties and local governments are expected to provide at least 20 percent of the project costs. Sixty one of the state's 67 counties have received some ATRIP funding.

The 45 counties that opted not to take part in RAMP will be guaranteed at least \$10 million in ATRIP funding. That amount is in addition to what those counties received when the initial ATRIP funding was announced last year.

## **Bills Passed by Senate**

### **Airbus Tort Reform**

House and Senate committees unanimously approved bills to limit the time frame for lawsuits against Airbus and its suppliers. Governor Bentley said the legislation would place Alabama on a level playing field with surrounding states in competing for supplier plants for the Airbus plant, where the A320 family of commercial aircraft will be built. The plant is expected to employ about 1,000 workers and could potentially bring another 3,700 jobs to Alabama. The legislation calls for a 12-year "statute of repose," meaning Airbus could not be held liable for any faulty part or other problem that did not arise within 12 years after Airbus sold the plane. Originally, the bills set that period at ten years but were amended in the committees. The state of Washington, where Boeing makes commercial aircraft, has a 12-year statute of repose. The bills also call for a two-year statute of limitations. The bills would apply to companies producing commercial aircraft that seat at least 100 people. The bill, which has been fast-tracked by leadership, has already unanimously passed the Senate and is on its way to the House.

## **Bills Passed by the House of Representatives**

### **Public Safety Consolidation**

After five hours of debate and by a vote of 67-26, the House approved a bill to consolidate more than 20 agencies with law enforcement or investigative missions down to nine, with most offices answering to a new secretary of law enforcement who would be appointed by the governor. The new secretary would also serve as state homeland security adviser. Under the new legislation, the State Bureau of Investigations, formerly the Alabama Bureau of Investigation, would oversee general investigations and the investigations currently done by forestry, agriculture, the Alcohol Beverage Control Board and other agencies. The Department of Public Safety would oversee highway patrol, driver's licenses, marine police and other law enforcement functions. The Department of Homeland Security would be eliminated and its functions absorbed by remaining agencies. The Senate already approved the proposal. Because the House amended the bill, it now returns to the Senate.

## **Bills Passed by Committees**

### **Red Tape Reduction Act**

The Senate Governmental Affairs Committee passed the Red Tape Reduction Act by a vote of 7-0. The legislation will provide:

- That a business economic impact statement must be prepared by state agencies, other than agencies primarily engaged in licensure, when the agency proposes a rule change and receives a complaint that the change may adversely impact small business
- For a five-year review of all existing rules to determine whether they should be changed or rescinded

- That proposed and existing regulation reviews be posted on agency websites to allow for public review

The bill now goes to the Senate for consideration.

### **Hotel and Conference Center and Gulf State Park**

After conducting a public hearing on the issue, the House Economic Development and Tourism Committee approved a bill to permit the construction of a hotel and conference center at Gulf State Park, where Gulf State Park lodge stood before being destroyed by Hurricane Ivan. The legislation would allow the state to seek proposals from companies to build a hotel on the 29 acres of beach. The state could also use BP settlement money to build a conference center. Any projects would have to be approved by the governor, Commissioner of Conservation and a majority of the Joint Legislative Committee on State Parks. The land could be leased for up to 99 years but could not be sold. The Perdido Beach Resort, a convention hotel in Orange Beach, has also been an opponent of the project. The project has been discussed for years, particularly since 2004 when Hurricane Ivan came ashore. Former Governor Bob Riley proposed to replace the lodge with a 350-room luxury hotel and conference center on the land to be leased to Auburn University but lost a legal battle to do so. The bill now moves to the House.

### **Career Technological Training Bond Issue**

The Senate Education Budget Committee approved the 21st Century Workforce Act, a \$50 million bond issue for public school boards to buy career and technical education equipment. The \$50 million would be allocated as follows:

- \$10 million to local school systems in proportion to the number of career tech teachers employed
- \$20 million to local school systems in proportion to the number of career tech students
- \$20 million to a new 21st Century Workforce Fund

The bill would create the 21st Century Workforce Grant Committee, which would allocate the grant money based on industry needs, gaps and other information, according to the bill. The grant money could not be used for construction of new facilities. Debt service on the bonds would be about \$3.7 million a year over the 20-year life of the bonds, according to the Legislative Fiscal Office. The committee added an amendment to encourage schools to collaborate with industry in obtaining equipment. The bill has already passed the House and now goes to the Senate for consideration.

### **Increased Access to Medical Care in Rural Alabama**

A bill that authorizes certified registered nurse practitioners and certified nurse midwives to prescribe medications from certain schedules of controlled substances has cleared the Senate committee. This bill codifies an agreement among business, nurses, midwives, the Alabama Medical Association and the Board of Medical Examiners and is intended to expand access to medical care in rural communities. The bill now goes to the Senate for consideration.

### **Bills in Committee Review**

#### **Medicaid Program Management**

Senator Greg Wren, chairman of the Joint Legislative Committee on Medicaid Policy, introduced three bills designed to create a "new" Medicaid program in Alabama and enable legislative oversight of the combined state-federal medical program's management. The bills were assigned to the House Ways and Means General Fund Committee, chaired by the bills' co-sponsor, Representative Jim Barton. HB 370 would cap General Fund appropriations for Medicaid contingent on passage of legislation establishing proposed Patient Care Case Management Networks across the state. The cap would be effective for the fiscal year ending September 30, 2017, or the first year following full implementation of PCCM Networks. The initial ten-year cap would be negative one percent growth in the Medicaid appropriation for 2016 and 0.05 percent on the amount appropriated each following year. HB 371 would require the Alabama Medicaid Agency to seek a waiver from the Centers for Medicare and Medicaid Services to increase Medicaid recipient co-payments for health care services. The waiver would be for co-payments taking effect no later than January 1, 2014, or if and when CMS approves the waiver. HB 372 would abolish the legislature's Medicaid Joint Interim Committee and the Permanent Joint Legislative Committees on Medicaid Policy and would create the Permanent Joint Medicaid Committee. It also would create a Medicaid Advisory Commission. The permanent Medicaid committee would be required to continually study the Alabama Medicaid program and recommend appropriate and needed changes to effectively operate the program. The committee also would oversee the expansion of existing programs and implementation of new programs, according to the legislation. The legislature created the Joint Legislative Committee on Medicaid Policy to create "a pro-patient, pro-taxpayer solution to transform Alabama's old Medicaid" into a new program that is patient-centered and outcome-based. The governor also created the Alabama Medicaid Advisory Commission, whose goal is reforming Medicaid by improving financial stability and patient care. Although there have been calls on the governor to expand Medicaid and accept the resulting federal dollars estimated to be as much as \$1 billion a year beginning in three years, the governor has said he won't expand Medicaid in its current form. According to officials, Medicaid, the single largest General Fund appropriation, is growing at an unsustainable state rate of more than \$100 million a year. Medicaid covers about 900,000 Alabamians, and another 332,000 residents are eligible.

## **Common Core Standards in Education**

During a joint public hearing that became heated at times, House and Senate committees heard from opponents and proponents of the bills to overrule the State School Board's 2010 adoption of the Common Core State Standards for curriculum. The committees, however, did call a vote. Currently, there are two bills, one in the House and one in the Senate, that would take control of the state's curriculum standards from the State Board of Education and reverse the board's 2010 adoption of the Common Core. Developed by the National Governors Association and the Council of Chief State School Officers, the standards were intended to increase global competitiveness by implementing more rigorous learning standards and provide portability between states by aligning the varied state curricula. To date, 45 states, the District of Columbia, four U.S. territories and the Department of Defense Education Activity have adopted the standards. The standards have been criticized as a federal intrusion into K-12 education since the Obama administration announced in 2009 that states seeking certain U.S. Department of Education grants would be scored, in part, on whether they adopt the standards. If enacted without revision, the bills would grant the legislature final authority over "any statewide school standard," including curriculum standards, and require the board to hold a public hearing in each congressional district before considering new standards. It would also repeal the adoption of Common Core State Standards and prohibit the state board from adopting them in the future. Advocates include education leaders and the business community, while critics are primarily conservative Republicans, although the Republican Caucus is reportedly split on the issue.

## **Independent Tax Commission**

Supporters and opponents of legislation to establish an independent Alabama tax appeals commission, separate from the Alabama Department of Revenue, gave testimony to the Senate Fiscal Responsibility and

Accountability committee. The bill also updates and conforms to federal law several provisions of Alabama Taxpayers' Bill of Rights to promote tax fairness and compliance. After the public hearing concluded, the committee delayed voting until their next meeting.

### **Air Permit Procedures**

The Walter Energy Bill would require expanded public notice of air permitting activities in Class 1 municipalities. More public notification would also be required in communities in which a Superfund site is located. The legislation proposes that the costs for this enhanced notification be paid by the industry applying for the permit. Opponents of the bill maintain that the ADEM permitting process already allows for ample public involvement.

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.