

# PUBLICATION

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## **Alabama Legislative Update – Week 3: Alabama Trust Fund Repayment Bill Passes**

**February 25, 2013**

The sixth and seventh legislative days of the Alabama Legislature's Regular Session saw the first bill passed by both houses and on its way to Governor Robert Bentley for his signature. As week three closed, priority legislation, pushed by the Speaker of the House Mike Hubbard and Senate President Pro Tem Del Marsh, advanced through the State House chambers.

### **Repayment of the Alabama Trust Fund Is First Bill to Become Law in 2013**

The Alabama House of Representatives gave final passage to a bill that requires full repayment of money transferred from an oil and gas revenues savings account to shore up the state's anemic General Fund budget. The House had previously passed a similar bill before the Senate added an amendment that requires repayment of the money even if the Legislature does not appropriate the funds. The House adopted the amendment by a vote of 90 to 0 and granted final passage. Governor Robert Bentley signed the bill into law on Wednesday. In September 2012, an amendment was approved by voters to allow the state to take \$437 million over the next three years from the Alabama Trust Fund and use it for the General Fund budget. The General Fund pays for Medicaid, prisons and other non-education state agencies. Spending from the General Fund has declined since the recession, and the revenue sources that support it are mostly flat, while some costs are rising. Before voters approved the amendment, Governor Bentley and legislative leaders promised the money would be repaid. The bill's passage fulfills that commitment. The bill will require the money to be repaid by 2026 and sets specific cumulative amounts that must be repaid by specific dates, beginning with \$5 million by September 30, 2014.

### **Tort Reform Legislation Introduced To Protect Airbus and Suppliers**

A bill was introduced to fulfill a commitment the state made to Airbus to protect the company and its suppliers from frivolous lawsuits. The bill would be applicable to only a small category of lawsuits which involve commercial aircraft manufacturers of aircrafts with 100 seats or more and manufacturers of component parts for such aircrafts. The manufacturer would potentially be liable only for causes of action occurring no more than 10 years after delivery of the aircraft, and a plaintiff would have to file suit against the manufacturer within two years after the cause of action occurs. The bill would protect the Alabamians who seek to bring suit against the manufacturer but would protect the manufacturer from out of state and foreign plaintiffs who may seek to file suit in Alabama simply because the manufacturer located the plant here. It would not impact a plaintiff's ability to recover from liable defendants. Florida and Mississippi have already passed bills similar to this as it relates to suppliers. Legislative leaders plan to fast-track the bill in both chambers and deliver it to the Governor to sign, which he is expected to do without delay.

### **House Passes Contraception Exemption for Religious Employers**

The House voted 67 to 28 to pass the Religious Liberties Act of 2013. According to the bill, certain religiously affiliated employers would have the ability to opt out of the Affordable Care Act's mandate that they cover contraception for their employees. HB 108 now moves to the Senate for consideration. The bill puts the Alabama legislation in direct conflict with President Obama's Affordable Care Act. It would exempt "religiously

affiliated or motivated employers" from providing coverage for contraceptive or abortion-inducing drugs or devices, either directly or through an insurance policy. The bill defines religiously affiliated or motivated employers as any entity "operated by a church, ministry or other organization with religious tenets, objectives and motivations." It also includes any business that has no more than 10 shareholders, members or partners "who have religious beliefs which oppose contraceptive or abortifacient drugs, devices or methods." Opponents maintain the bill's passage all but guarantees a fight with federal government. More than 40 lawsuits have been filed by religious nonprofits and secular for-profit businesses, most notably Hobby Lobby, claiming the mandate violates their religious beliefs.

### **House Version of Local Control School Flexibility Act Passes Senate Committee**

Despite a heated debate and attempts to add amendments to the House-passed bill, the Senate Education Committee approved legislation that would allow school districts to apply for waivers from some state laws. Under the House bill, school districts also could request waivers from state laws, such as those dealing with teacher certification and competitive bidding. Districts would have to hold public hearings on their requests before submitting them to the Department of Education. The state superintendent of education would have 60 days to review the application; then the State Board of Education would review the request on the superintendent's recommendation. Schools would be prohibited from seeking waivers from the state ethics law and from state law setting minimum pay for certain positions. Teachers would be required to be offered tenure track positions; however, school districts also would have the option of offering employees non-tenure track positions in return for other considerations, such as higher pay. Another version of the School Flexibility Bill was passed by the same committee last week and included amendments sought by the teachers union, Alabama Education Association (AEA). The House bill now moves on to the full Senate where a vote could come as early as Tuesday.

### **State Health Officer Says Medicaid Will Face Shortfall In 2015**

House and Senate budget committees met jointly in budget hearings for the Alabama Medicaid Agency and the Departments of Public Health, Mental Health and Human Resources. State Health Officer Don Williamson said the Medicaid Agency could manage to minimally fund its programs for fiscal 2014 with a \$615 million appropriation from the General Fund. But Williamson said Medicaid, which serves about 900,000 Alabamians, would need more than \$730 million in fiscal 2015. Williamson said he can find the money needed through 2014 by making budget cuts in services and other expenditures. "After 2014, there is no money left," Williamson said. He downplayed expectations for how much can be saved by proposed structural changes to Alabama's Medicaid commission. An advisory commission recently recommended that the state be divided into a series of community-run managed care networks to try to contain Medicaid costs.

### **Historic Building Tax Credit Clears Committee**

The House Ways and Means Education Committee approved a bill that would provide tax credits for rehabilitating historic structures or non-historic buildings that were built before 1936. Proponents hope the credit will encourage investors to rehabilitate historic areas that have been in decline. The bill, which has been introduced in past legislative sessions, now goes to House.

### **Senate Expands State Superintendent's Authority to Take Over Failing Schools**

After little discussion, the Senate unanimously passed legislation to give the state superintendent of education a tool to take over consistently low-performing schools. Currently, the superintendent has the authority to intervene when there is financial mismanagement, but this bill would allow the superintendent to intervene when there is academic failure. The legislation would allow the State Board of Education, through the state

superintendent, to take "direct control over the decision-making and operational functions of city and county boards of education when such boards are placed under educational intervention by action of the State Board of Education." The bill now moves to the House where it is expected to pass.

### **Health Care Compact Legislation Passes House**

The House approved a measure that would authorize Alabama to form a compact with other states to bypass federal regulations and let states administer programs like Medicaid through block grants.

Under the idea, states would get a block grant equal to the amount of federal health care dollars given to their state, and states would be freed from federal regulations on how to spend the money. The compacts have been proposed in other states. However, forming such a compact would need congressional approval, something that is unlikely to happen any time soon. The House voted 68 to 27 for the bill, which now moves to the Senate.

### **Taxpayer Bill Of Rights Passes House Committee**

On a voice vote, the House Judiciary Committee passed a bill which provides for an independent Alabama tax appeals commission, separate from the Alabama Department of Revenue, and it updates and conforms to federal law several provisions of the Alabama Taxpayers' Bill of Rights to promote tax fairness and compliance. The bill provides that the Governor would select judges for the tax appeals commission from a list of qualified candidates vetted by a seven-member nominating committee. The judge would then be sworn in, as there is no requirement for Senate confirmation.

### **Red Tape Reduction Act Passes Senate Committee**

The Senate Fiscal Responsibility & Accountability Committee approved the Red Tape Reduction Act. The companion bill, which passed the House unanimously, provides 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, among other requirements.

### **Alabama Senate Passes Bill To Create Fair Ballot Commission**

The Senate passed the Informed Voter Act that would set up a Fair Ballot Commission to approve statements that explain statewide ballot measures for voters. The 15-member commission would include the Governor, Lieutenant Governor, the Speaker of the House of Representatives, Secretary of State and Commissioner of Agriculture and Industries, or their designees. Each would appoint to the commission one attorney and one private citizen who is not an attorney. Under the bill, no later than 60 calendar days before a vote on a statewide ballot measure, the commission would post on the Legislature's website, a ballot statement that would include the text of the ballot measure and a "plain language" summary of the proposal.

### **Legislative Consolidation Bill Carried Over**

After four days of consideration, the Senate voted to carry over a bill that would have consolidated legislative support operations under the control of a handful of House and Senate members. Even though the bill's sponsor, Senator Jimmy Holley, attempted to appease opponents, senators overwhelmingly voted not to end a filibuster led by Democrats and ultimately supported by majority Republicans. The Senate voted 2 to 27 against cutting off debate. On a voice vote, however, senators agreed to carry his bill over. While technically not dead, the bill faces a significant uphill battle if it is to be revived.

## **Public Safety Consolidation Bill Passes House Committee**

The House Public Safety Committee passed a Senate bill, which passed the upper chamber unanimously and would move functions from several state agencies under one umbrella. The sponsor, Senator Marsh, projects there would be annual savings of \$25 to \$35 million. He said there would be savings and efficiency without jeopardizing the law enforcement mission of the agencies.

Marsh said he was hopeful that the savings could be used for raises for public safety employees. The legislation would create a Secretary of Law Enforcement, who would be appointed by the Governor, and two major entities under his control, the State Bureau of Investigation and the Department of Public Safety. The Secretary also would serve as the Homeland Security Adviser for the state and the Department of Homeland Security would be eliminated. Current State Homeland Security Director Spencer Collier is rumored to receive the appointment.

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.