

# PUBLICATION

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## Alabama Legislative Update - Week 11: As Session Winds Down, Legislative Action Ramps Up

April 30, 2012

With only seven legislative days left in this Regular Session, State House activity is reaching an almost-frenzied pace. Patience is running low for nonsense, as legislators are increasingly and painfully aware that some of the most controversial legislation, including both budgets, still awaits definitive action. The remaining days will be broken into three-day sessions this week and next week. Then, a five-day special session that will tackle the politically charged issue of redistricting is scheduled to take place May 14-18, just prior to *sine die* adjournment on May 21st, the thirtieth and final day of the regular session.

### Electronic Single Point Filing Bill On The Way To Governor

In what is being hailed as the most pro-business legislation of this regular session, the Alabama Senate concurred with technical amendments added by the House to a bill that will streamline the process for businesses filing tax returns with cities and counties across the state, sending the bill to Governor Robert Bentley to be signed into law. Under current law, taxpayers doing business in more than one municipality or county in Alabama must file separate tax returns with each of those local taxing jurisdictions as well as the Alabama Department of Revenue. According to the Alabama Retail Association, some retailers in the state have to file up to 150 returns and write up to 150 checks to as many as 150 different government entities every month. This legislation, which received strong bipartisan support, creates an electronic single point of filing system. This system will be made available for businesses 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 bill requires the system to be operational in time for returns and payments due in tax periods that begin after September 30, 2013.

### House Passes Bill Creating Small Business Financing Authority

The House passed the Alabama Small Business Financing Act, which would set up an independent entity to assist companies with a variety of credit needs, operating under the Alabama Department of Economic and Community Affairs (ADECA). The bill allows the state to strengthen and streamline ADECA's existing business loan and grant programs and allows for further state investment in the future. Other states have seen tremendous success with small business financing authorities. Virginia's program has seen 30-1 private-public funding ratio, and in the first year of operation, returned approximately \$5.89 in new state revenue for every dollar invested. In August, Alabama was awarded a \$31.3 million grant through the U.S. Treasury's State Small Business Credit Initiative (SSBCI) to promote small business lending through three programs: the Alabama Capital Access Program, the Alabama Loan Guaranty Program and the Alabama Loan Participation Program, all administered within ADECA. The Alabama Small Business Financing Act would codify the current SSBCI programs into law under the Alabama Small Business Financing Authority, an independent entity operating under the authority of ADECA. Codifying the programs gives them the legal authority to modify the specific rates and terms of the programs to ensure that bank participation remains strong.

### Insurance Relief Package Clears Senate

The Alabama Senate approved a package of five bills that could bring insurance relief to homeowners in coastal Alabama. The package includes bills that would bring needed improvements to the state's market for homeowner's insurance and would ease investment restrictions. The bills approved by the Senate late Tuesday include:

- SB 210: Requiring insurers to disclose information to the state Department of Insurance, which would aggregate the data and create a public database, searchable by ZIP code, showing how many policies insurers write, how much they charge for premiums and how much they lose in claims;
- SB 227: Allowing homeowners to create "catastrophe savings accounts," which would have tax benefits similar to a retirement account and could be used to help pay for storm damage;
- SB 230: Providing tax breaks to insurance companies that write policies in parts of south Alabama; and
- SB 164: Allowing Alabama-based insurers to invest money out of state.

If approved by the House, Governor Robert Bentley could sign the bills into law before the end of the current session.

### **House Bill 56 Revisions Approved for Floor Vote**

The Senate Judiciary Committee on Wednesday approved revisions to the controversial HB 56 immigration law. The committee's 7-3 vote came after a somewhat heated public hearing. Prior to voting, the committee eliminated some controversial language from the bill that would have allowed law enforcement officials to question and detain passengers of vehicles during traffic stops upon "reasonable suspicion" that a passenger is in the country illegally. Additionally, the committee added language that would prohibit school officials from collecting from schoolchildren information on the status of their parents and provide that the bill would go into effect 60 days after being signed. Other changes would remove language to ban undocumented aliens from attending public colleges, and a section that prohibited state and local agencies from doing business with undocumented aliens would limit that ban to business licenses and motor vehicle transactions. The bill will likely go to the Senate floor next week for a vote.

### **Legislative Pay Raise Repeal Passes**

On Thursday, the Legislature gave final passage to one of the cornerstones of the Republican agenda: the repeal of the 2007 legislative pay raise. During the 2010 campaign, most, if not all, Republican candidates, specifically those who challenged Democrat incumbents, campaigned on the 2007 pay raise. Many believed it was a key factor in the Republican takeover. The issue now goes to the ballot in a statewide referendum in November, where the people will vote on repealing the pay raise and prohibits the Legislature from ever voting on its own pay again. Among other things, the constitutional amendment will repeal the Legislature's 2007 pay raise and the automatic annual cost of living increases for lawmakers that were built in with it; reform legislators' expenses process; limit legislative salary to median household income; and expressly prohibit the Legislature from ever voting to raise its own pay or expenses ever again.

### **House Could Vote On Occupational Taxes Next Week**

The House County and Municipal Government Committee by voice vote gave its approval to a plan that would allow the Jefferson County Commission to raise as much as \$71 million a year in occupational taxes, gasoline taxes or other levies. The bill could come up for review by the entire 105-member House as soon as Tuesday. But a dispute over part of the bill dealing with an occupational tax could threaten the bill's chances of becoming law. An occupational tax levied under the bill, if it were to become law, could not exceed 0.5 percent of the wages earned by someone working in Jefferson County. Such a tax under the bill as now written would apply

to architects, attorneys, doctors, engineers and others who pay state or county license fees. House members could rewrite the bill so that professionals and others who now pay license fees would be exempt. Jefferson County Commission President David Carrington said commissioners were asked for input on the bill. He said including a provision that professionals would be taxed under an occupational tax levied under the bill was "a miscommunication" that would be fixed. The bill's sponsor, Representative Jack Williams, however, has said, "I don't think my bill can be fixed at this point," adding that it might be dead.

### **Legislature Passes Ban On Texting While Driving**

Under a bill that won final legislative approval this week, texting while driving would be banned, with some exceptions, for all drivers on public roads and highways in Alabama. The ban would not apply to a driver obtaining emergency services; a driver whose motor vehicle was parked on the shoulder of a road or highway; or a driver getting directions from a navigation or global-positioning system. The bill takes effect July 1 or August 1 if the Governor approves it, depending on when that happens. The bill would not ban people from talking on cell phones while driving.

### **House Narrowly Approves Home Brewing**

After more than a four-hour filibuster, Legislators voted 44-33 for the bill, which specifies that the product could be used only for personal use and there would be limits on how much a person could brew in a three-month period. Currently, Alabama and Mississippi are the only states where home brewing is still illegal. The bill now moves to the Alabama Senate for consideration.

### **Committee Approves Tax Abatement Bill for Storm-Damaged Businesses**

A House committee approved a Senate bill that would allow tax abatements under Alabama's 1992 abatement law for businesses repairing or relocating after a natural disaster. The abatement will be allowed if the replacement property is not more than 25 percent of the cost of the original property. The Alabama House debated for three hours Tuesday before passing a bill that would fix the Department of Revenue's problems with the "Gross Income" issue. For years, the department has been caught in the middle of a conflict between the state income tax statutes and the department's own regulation. The statute directed Alabama resident owners/partners of "pass-through" entities that do business inside and outside of Alabama to report their shares of the entity's income from all sources. A departmental regulation, however, instructed taxpayers to report their shares of the entity's income earned in Alabama. A taxpayer who followed the regulation and applied his/her full federal income tax deduction (representing the entity's worldwide operations) could then reduce or eliminate all of his/her state income tax liability. A compromise bill would require the taxpayer to recognize his/her share of income from all sources worldwide, and the taxpayer would receive credits for 100 percent of entity-level, income-like taxes paid to other states and receive a 50 percent credit for income taxes paid to foreign countries to avoid double taxation.

### **House Passes Bill To Extend Capital Credits**

The Alabama House passed a bill which provides that businesses that qualify for the state's income tax capital credits may carry forward the credits from one year up to four additional years, depending on the amount of the capital investment, but not to exceed the original total of 20 years. An Alabama Department of Revenue report on the actual use of capital credits shows that significant portions of the credits are not taken because the companies are not profitable in their early years of operation.

### **Changes to Unemployment Law Sees Action In Both Houses**

The House has passed a bill that would establish a one-week waiting period during the first compensable week of benefits for individuals seeking unemployment compensation benefits. The bill now heads to the Senate. If enacted, the bill would amend current law, which applies a one-week waiting period after the thirteenth compensable week of paid unemployment benefits. Also, the Senate unanimously passed a bill that would institute a 104-week disqualification of benefits if a person is found to be fraudulently claiming he is unemployed simply to receive unemployment compensation benefits and until the amount fraudulently awarded is repaid in cash. Any federal or state funds due to the person could be intercepted by the Department of Industrial Relations to repay the debt. Under current law, a person who fraudulently misrepresents that he is unemployed for the purpose of receiving unemployment compensation benefits cannot be disqualified from receiving benefits. The bill will now return to the House to concur with the changes made. If the House approves the changes, the bill will then go to the Governor.

### **Alabama Passes Legislation to Establish an Alabama Health Insurance Exchange**

By a vote of 92-0, the House granted a favorable report to a substitute bill that would create and set operating guidelines for the Alabama Health Insurance Marketplace as mandated by the Patient Protection and Affordable Care Act of 2010 (PPACA). The bill now goes to the Senate. Commonly referred to as "the exchange," it would provide a centralized location where individuals may obtain comparative information on available health insurance plans and would facilitate the purchase and sale of those plans. The bill also creates a Small Employer Insurance Marketplace where small employers with 50 or fewer full and part-time employees could access health insurance coverage for their employees beginning in 2014. In 2016, employers with 100 or fewer employees would be eligible to offer coverage to their employees via the Small Employer exchange. This legislation further mandates the Alabama exchange be self-sustainable by 2015. Funding to operate the estimated \$30 million to \$50 million per year exchange would come from fees or assessments to policies sold to individuals and from employers who purchase coverage through the exchange. It also includes language that if the PPACA is upheld, lawmakers must enact legislation by December of this year to establish a framework for an Alabama-led and managed health insurance exchange. If the Legislature fails to act, the federal government will manage the exchange. The U.S. Supreme Court is expected to rule in early summer on the constitutionality of the PPACA.

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.