

PUBLICATION

Alabama Legislative Update - Week 9: Teacher Pay Raise and Water Works Bills Stir Up Session

March 18, 2014

Two major developments last week will influence the productivity of the remaining six legislative days in the 2014 Session. The first session-changing event occurred when Senate Majority Leader and Chair of the Rules Committee, Senator Jabo Waggoner, R – Vestavia Hills, succeeded in gaining passage of his bill to add three members to the Birmingham Water Works Board. Earlier in the session, his attempt to end debate on the bill with a cloture motion failed. The bill had to be carried over. On Tuesday the Senator had lined up cloture votes and, following hours of floor debate and two test floor votes to end debate, the Senate vote came in the evening with **SB 344** passing on a 20 – 9 and one abstention vote. The bill is now in the House Judiciary Committee.

Senator Waggoner's bill would mandate new rules for the Birmingham Water Works Board, set term limits for Board members and cap board pay at \$500 monthly and mandate public hearings before customer rate increases. Of the three new board members, two would come from Jefferson County and one rotating member from surrounding Blount, Shelby, St. Clair and Walker Counties.

Passage of the bill came after the sponsor committed to place another bill on a Senate Special Order Calendar Thursday, hoping to gain support and votes for cloture and final passage of the bill. Passage also came after hours of parliamentary maneuvering by Senator Rodger Smitherman, D – Birmingham, vowed to bring the Senate to a standstill if the bill passed. That he did on Thursday, the next legislative day when Senator Waggoner kept his word and **SB 354**, The Guns In Cars bill by Senator Scott Beason, R – Gardendale, was called up for consideration. The bill would allow a person to carry a loaded pistol in his or her vehicle, within reach, without a permit.

Senator Smitherman also kept his word and the Senate listened to the Senator into the evening as he brought proceedings to a crawl. Late Thursday morning when the Special Order Calendar was approved and the first bill called up, the talking began and was non-stop until 6:36 p.m. after a cloture vote to end debate failed by 18 – 10. The gun bill itself will consume hours of Senate debate. Senator Smitherman's pledge to shut down the Senate for the remainder of the legislative session leaves to Senate President Pro Tem Del Marsh, R – Anniston, the challenge of salvaging the remaining six legislative days.

The second significant development last week occurred on Wednesday in the House Ways and Means Education Budget Committee when it approved a \$5.9 billion education budget different from the Senate version and different from the Governor's budget. The House included money for an increase in public school employee health insurance but no money for a one-time bonus or pay increase. The House budget restores \$10.4 million to Alabama State University that was cut in the Senate budget. The House also added extra money for 400 middle school teachers, which is 150 more new teachers than in the Senate budget.

Governor Robert Bentley has drawn a line in the sand saying he will veto any budget that does not include a two percent teacher pay raise. The two percent pay raise may be impossible without action by the House Ways and Means Education Committee. The bill was amended in the Senate, taking the proposed two percent pay raise and exchanging it for a one-time one percent teacher bonus. The bill stalled in the House Committee, and an amendment changing the teacher bonus back to a two percent pay raise can only occur on the House

floor. The Governor has no executive power to add a two percent pay raise to the Education Trust Fund Budget, which is pending a vote by the full House.

Both the Senate and House Education Budget chairs say there is no money to provide a two percent pay raise. In this election year, the Alabama Education Association (AEA) has already contributed \$150,000 to two candidates running against Republican incumbent Senators and \$25,000 to candidates opposing two Republican House members. The budget will be on the House calendar tomorrow for debate. Considering that with the differences in the Senate and House budgets, the Senate will have to take up the House version and it is there that Senator Smitherman's mastery of Senate Rules could grind the session to a halt.

Other Alabama Senate Action

Passed **SB 174**, Carly's Law, by Senator Paul Sanford, R – Huntsville, named after Carly Chandler, a three-year-old who suffers from a rare genetic disorder that has led to uncontrollable seizures and affected her developmental ability. Her father Dustin, a Pelham police officer who is the force behind the bill, says cannabidiol (CDB), a derivative of marijuana, could be the drug that prevents the seizures. The bill would legalize the medicinal use of CDB. But because the "medication" comes from marijuana, legislators were put on the spot with the elections in June and November. In what is being heralded as a "master stroke," the bill was amended to authorize a study by the University of Alabama in Birmingham's Department of Neurology to determine the medicinal uses of CDB and then to approve treatments using CDB for individuals diagnosed with severe epilepsy and neurological disorders. With this amendment and the addition of \$1 million for the research to the Education Budget, the Senate approved the bill 34 – 0. It now goes to the House where Representative Mike Ball, R – Madison, will push for approval.

Alabama Senate Committees

The Senate Education Committee held a two-hour public hearing last Wednesday on **SB 443**, by Senator Scott Beason, R – Gardendale. The bill would end previously approved statewide standards for clear and consistent instruction in mathematics and English language arts abilities and would block implementation of additional statewide standards in future years in other content areas. The bill would give authority to each local school system to determine what required instruction standards students and teachers in those systems would have as core requirements. The goal of Alabama's College and Career Ready Standards, which were adopted by the State Board of Education as reported here last week, is to adequately prepare students for future employment in the developing Alabama workforce where higher paying jobs require better educated employees.

The debate in the public hearing was intense and included passionate testimony opposing the Beason bill by Business Council of Alabama President William J. Canary, who told Committee members, "the voices of business and industry for the state of Alabama have united in support of working education standards that make sure our students are college and career ready when they graduate from high school." He further noted that to remove school instruction standards from the State Board of Education, "is the very definition of a government overreach" by the Legislature. The Committee did not vote until it reconvened later Wednesday and gave a favorable report on the bill with a 5 – 2 vote. Senate Pro Tem Del Marsh indicated after the vote that he did not expect the bill to pass this session as, "The votes are not there to get it to the floor."

The Senate Finance and Taxation Education Committee on Thursday passed 10 – 0 **HB 42** by Representative Wayne Johnson, R – Ryland. The Alabama Taxpayer Audit Protection Act would make it illegal for an officer, agent or employee of the Alabama Department of Revenue, or any county or municipal government, including any third party acting on behalf of, or as an agent of any entity, to intentionally lie or fail to fully disclose pertinent relevant information with respect to a taxpayer audit, personally gain from mishandling a taxpayer's

case, falsify or destroy documents to conceal mistakes, and threaten an audit for personal gain or retaliation. The House had passed the bill 74 – 22 and it now goes to the full Senate.

The Senate Finance and Taxation Education Committee voting 9 – 0 on Thursday approved **HB 9**, the Tax Elimination Act, sponsored by Rep. Jim Patterson, R-Meridianville, to require the Alabama Department of Revenue to suspend collection of certain taxes or fees if the administrative cost of collection, based on the collection cost of the previous three fiscal years, is more than the amount collected. Exceptions are those taxes required by federal law, or that would negatively affect public health, safety or welfare. Having already passed in the House, the bill now goes to the full Senate. Both **HB 42** and **HB 9** are part of the House Republican Caucus' "Commonsense Conservative" agenda.

The Senate Commerce, Transportation, and Utilities Committee narrowly approved **HB 292**, The Landfill Act, by Representative Alan Baker, R – Brewton, by a 3 – 2 vote. The bill would amend The Solid Waste Law to require a local governing body to affirmatively approve a new permit application for a solid waste disposal facility within 120 days, or the application would be deemed denied. The bill passed the House 88 – 9 and now goes to the full Senate.

The Senate Agriculture, Conservation, and Forestry Committee voted 9 – 0 last Wednesday, approving **HB 49** by Representative Alan Boothe, R – Troy, that would codify the Alabama Drought Assessment and Planning Team process that has been in place through executive order for more than a decade. The bill also would require the development of drought plans for water utilities and the State of Alabama. The bill passed the House 94 – 0 and now goes to the full Senate.

HB 489, an updated Woman's Right to Know Act, received a favorable report in the Senate Health Committee. Physicians and other qualified persons are currently required to provide certain prescribed materials to a woman at least 24 hours before the performance of an abortion. This bill would require that the prescribed materials be provided at least 48 hours prior to the performance of an abortion. The bill now goes to the full senate. The bill is part of a package of four pro-life bills introduced and passed by House Republicans last week.

SB 355 by Senator Cam Ward, R – Alabaster, and **HB 475** by Representative Jim Carnes, R – Birmingham, received favorable reports in their respective committees, the Senate Energy and Natural Resources Committee and the House Commerce and Small Business Committee. These Regulatory Relief Acts would authorize counties or municipalities that are subject to the U.S. Environmental Protection Agency municipal separate storm sewer system program to carry out requirements of the municipal separate storm sewer system program and the option to establish inter-cooperative public corporations for efficient compliance with applicable federal and state laws and other regulations. Both bills are in position to be considered by their respective houses.

In The Alabama House of Representatives

Passed **HB 350** by Representative Ed Henry, R – Hartselle, on a 65 – 23 vote Thursday sending it to the Senate. The bill would place the Examiner of Public Accounts under the State Auditor. The legislation was prompted by a decision by Chief Examiner Ron Jones to promote an assistant examiner to a salary of \$240,000 a year. Jones is paid \$241,000 a year. The bill sponsor and other legislators don't like that no one has authority over the salary structure in the Examiner's Office due to the nature of the office and suggest that the State Auditor is the appropriate place to add accountability. The Senate bill sponsor is Senator Arthur Orr, R – Decatur.

Passed **SB 7** by Senator Dick Brewbaker, R – Montgomery. The School Unfunded Mandate Constitutional Amendment received a 95 – 0 vote and has been sent to the Secretary of State for ballot assignment. If voters approve, it will prohibit an unfunded mandate on any local school board without a two-thirds vote by the Legislature, or unless the Legislature appropriates funds or there is a local source of revenue for the mandate. The bill passed the Senate 33 – 0.

Passed The Patent Trolling Act, **SB 121**, sponsored by Senator Arthur Orr, R – Decatur, would make it a crime for anyone to assert a claim of patent infringement in bad faith and would authorize the attorney general to investigate claims and to file enforcement actions. The bill passed the Senate 20 – 1 and the House 93 – 0. Because the House substituted and amended the bill, it must return to the Senate for consideration. The House version was amended to allow legitimate patent infringement claims.

Passed **HB 547** sponsored by Representative John Rogers, D – Birmingham on a 98 – 0 vote. The bill would require contractors to pay their subcontractors on a public works project within 10 business days of the contractor being paid for completion of that portion of a contract. The bill was sent to the Senate Fiscal Responsibility and Accountability Committee.

On February 26, the House passed a similar bill on a 96 – 0 vote, **HB 24** by Representative Bill Roberts, R – Jasper, to require public agencies to pay contractors working on public jobs within 35 days after the contracting agency approves payment. It would also set time limits for reviewing contracts in excess of \$50,000 and paying invoices once they have been received by the contracting public agency. **SB 386** by Senate President Pro Tem Del Marsh, R – Anniston, the Senate version, is on the Senate calendar.

Alabama House Committees

The House Internal Affairs Committee by voice vote Wednesday approved **SB 11** by Senator Jimmy Holley, R – Elba. The Legislative Oversight Reorganization Act would reduce the size of the joint House-Senate Legislative Council from 32 members to 20 members with 10 from each chamber and replace three standing legislative committees with the new 20-member Legislative Council. As reported here last week, a public hearing was held in the House Internal Affairs Committee two weeks ago, but no vote was taken. This powerful council oversees House and Senate operations, sets employee pay and oversees general legislative administrative services.

The House Ethics and Finance Committee gave a favorable report to **SB 36** substitute by Senate President Pro Tem Del Marsh, R – Anniston, by revising the bill to restore most of Senator Marsh's original proposals. It would prohibit former legislators from lobbying both the House and Senate for two years after their term of office ends. It would also establish that the two-year prohibition from lobbying a former legislative body does not begin until the end of the term to which the official was elected. The bill now goes to the full House.

The State Government Committee gave favorable approval to **HB 266**, The Daylight Savings Time Permanent In Alabama Act, by Representative Greg Wren. It is ready to be placed on a House calendar. The bill would keep Daylight Savings Time indefinitely in Alabama instead of changing the clock every March and November.

The House Commerce and Small Business Committee on Wednesday conducted a public hearing on legislation that could increase Alabama's minimum wage to \$9.80 an hour. Currently, Alabama does not have a minimum wage law but it adheres to the federal minimum wage of \$7.25 an hour. **HB 279** sponsored by Rep. Darrio Melton, D – Selma, proposes a constitutional amendment, which, if passed by both the House and the Senate, would go on statewide ballots for Alabama voters to consider. The committee did not vote and Committee Chairman Rep. Jack Williams, R – Vestavia Hills, said the committee either will vote on the bill at its

next meeting or assign it to a subcommittee for further study. Assigning the bill to a subcommittee will kill it for the session.

HB 475 by Representative Jim Carnes, R – Birmingham, and **SB 355** by Senator Cam Ward, R – Alabaster, received favorable reports in their respective committees, the Senate Energy and Natural Resources Committee and the House Commerce and Small Business Committee. These Regulatory Relief Acts would authorize counties or municipalities that are subject to the U.S. Environmental Protection Agency municipal separate storm sewer system program to carry out requirements of the municipal separate storm sewer system program and the option to establish inter-cooperative public corporations for efficient compliance with applicable federal and state laws and other regulations. Both bills are in position to be considered by their respective houses.

The Legislature returns to work Tuesday, March 18 for a three-day week. The House will convene at 1 p.m. and the Senate at 2 p.m. 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.