

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT

2018 REGULAR SESSION · WEEK SIX · FEBRUARY 16, 2018

The Alabama Legislature convened for the eleventh and twelfth legislative days of the 2018 Regular Legislative Session this week. Both houses tackled full floor agendas on both Tuesday and Thursday with a full committee schedule for each body on Wednesday. This report includes highlights of the week, which, notably, include movement of both the Education Trust Fund Budget and the General Fund Budget. Should the budgets continue to move at the uneventful and swift pace of late, rumors about an earlier-than-usual *sine die* might become reality after all.

Without question, the undercurrent chatter of the week focused on elections, as last Friday was the qualifying deadline for major party candidates running in the 2018 Election Cycle. There were a few surprises, including Sen. Slade Blackwell's (R—Mountain Brook) last minute withdrawal of his reelection bid to throw his hat in the governor's race. He dropped out of that race on Monday. Over the weekend, Sen. Sanders (D—Selma) pulled a similar move by announcing he will not run for reelection and that his daughter, who qualified on Friday for the Democratic Primary for that seat, will run in his place.

A surge of Democratic candidates seeking to challenge Republican or even fellow Democratic incumbents is noticeable, and the newfound interest and confidence is not surprising in the wake of the election of Doug Jones (D) to the U.S. Senate, coupled with strong feelings about President Trump and what many Democrats feel reflects a divisive federal agenda. Democrats qualified for Governor, Lt. Governor, Attorney General, Secretary of State, Auditor, Chief Justice of the Supreme Court, one Associate Justice seat and numerous legislative seats. It will be interesting to see if their optimism is supported by the voters in November. Two constitutional Democratic candidates are noteworthy: Robert Vance, who challenged Roy Moore in the Chief Justice race in 2010, is taking a second run at that seat. Additionally, Joseph Siegelman, the son of former Governor Don Siegelman who was released from federal prison last year, is running for Attorney General; his father held the post from 1987 – 1991.

Both the number of open seats and the number of unopposed incumbents are remarkable. There will be 23 open seats in the Alabama House, out of 105 seats, and there will be at least 11 open Senate seats out of 35 seats. Almost a quarter of the House and almost a third of the Senate will be freshmen in 2019. More than a quarter of the House seats and more than a third of Senate seats are uncontested.

Also interesting is that the concentration of turnover in major metropolitan regions, particularly Huntsville and Mobile, might impact the political dynamic within those regions. When strength in numbers is needed to

support or oppose a measure significant to a specific area, existing camaraderie and experience among a delegation is important but, as the Jefferson County delegation routinely demonstrates, a united front is not given.

We will provide a more extensive report on the elections in the next month, including a breakdown on the statewide races, but for now we wanted to provide some summary data:

House of Representatives

Retiring or running for other office: 23

General Election Contested: 48

Republican Primary: 34

Democratic Primary: 23

Unopposed Incumbents: 27

Unopposed for Open Seats: 2

Senate

Retiring or running for other office: 11

General Election Contested: 17*

Republican Primary: 13

Democratic Primary: 5

Unopposed Incumbents: 12

Unopposed for Open Seats: 1

*including one Independent who has declared his intentions, Rep. Ford in SD10 (R—Gadsden).

***BUDGET DEBATE PROGRESSES: GENERAL FUND BUDGET
APPROVED BY SENATE COMMITTEE, HOUSE PASSES
EDUCATION BUDGET***

The Legislative session is less than half way over and both budgets are on the move. The House passed a \$6.6 billion Fiscal Year 2019 Education Budget and sent it to the Senate. The budget passed unanimously. It funds a \$20 million expansion of the Pre-Kindergarten program and provides a 2.5 percent pay raise for K-12 and community college instructors and support staff.

The Senate Finance and Taxation Committee on the General Fund approved a \$2.03 billion General Fund Budget for Fiscal Year 2019. The budget includes funds for a three percent raise for state employees. The Department of Corrections would receive an increase of \$50 million for Fiscal Year 2019 to reform and enhance its health delivery services to address medical and mental health deficiencies in the department and allow the department to begin to address staffing needs.

Governor Ivey has also proposed a \$30 million supplemental

appropriation for the Department of Corrections in the current year to begin addressing the staffing and healthcare needs in the current year. That bill is scheduled to be debated in the Senate General Fund Committee next week.

SENATOR ORR FILES LEGISLATION TO CREATE THE ALABAMA DATA BREACH NOTIFICATION ACT

This week, Sen Orr (R—Decatur) introduced the Alabama Data Breach Notification Act, SB318, which is scheduled to be considered by the Senate Governmental Affairs Committee on Tuesday, February 20. To refresh, members of the business community have been working with the Attorney General’s office over the past month to smooth out concerns from various interests. Though there are still outstanding issues left to be addressed, the introduced legislation reflects consideration of important business interests including a provision exempting federally-regulated entities and a heightened culpability trigger coupled with a \$500,000 cap on damages under the Deceptive Trade Practices Act (DTPA). The bill also limits private causes of action under the DTPA, but additional language is being requested to solidify that point to be sure that exclusive authority for DTPA rests with the Attorney General. Finally, while the bill distinguishes between a covered entity and third-party agent, placing the notification burden with covered entity, the bill allows for covered entities and third-party agents to contract as to notification responsibility.

As we reported in recent weeks, we are actively working with the Attorney General’s office on this legislation, as well as communicating with other similarly-situated interest groups such as the Business Council of Alabama. **If you have an issue with this legislation, it is important that you educate us on your specific concern as soon as possible.**

LEGISLATURE PASSES BILL TO AUTHORIZE STATEWIDE EXPANSION OF TRANSPORTATION NETWORK COMPANIES

On Tuesday, the Senate unanimously gave final approval to HB190 by Rep. Faulkner (R—Birmingham) and Sen. Singleton (D—Greensboro), to **authorize statewide expansion of transportation network companies**. This legislation reflects negotiations that progressed over a period of more than two years, which included reaching agreements with the major metropolitan areas and the League of Municipalities over the last two months.

OTHER ACTION THIS WEEK

SB29 by Sen. Holley (R—Elba) related to **public accountancy** is pending Governor Ivey’s signature. The bill would amend the makeup of the Alabama State Board of Public Accountancy; authorize the board to classify a public accountant as retired; and shorten the time period after which the board may determine a licensee to be inactive or take disciplinary action against a licensee

for failure to apply for a permit.

SB77 by Sen. Waggoner (R—Birmingham), to provide that the **Alabama Securities Commission** shall fix the director’s salary with approval of the State Personnel Board, is pending Governor Ivey’s signature.

HB131 by Rep. Pringle (R—Mobile), related to operations of the **Public Examiner’s office**, received final passage by the Senate on Tuesday. The bill substantially amends the authority of the Chief Examiner of Public Accounts and approved legislation reflects negotiations with numerous government agencies and entities.

HB34 by Rep. Greer (R—Rogersville) to **authorize use of deadly force** in churches for self-defense or in defense of certain crimes against church members or volunteers, passed the House this week.

A preliminary procedural vote for the House’s consideration of HB132 by Rep. Black (D—Muscle Shoals) related to the Board of Dental Examiners failed when the bill came up on the House floor on Thursday. The bill expands certain exemptions for mobile dental facilities and defines patient abandonment.

The House approved HB260 by Rep. Chesteen (R—Geneva) to authorize **income tax credits** for the purchase of irrigation equipment or reservoirs for agricultural purposes. The bill has not yet been received by the Senate.

The House approved HB279 by Rep. Davis (R—Mobile) related to submission requirements for **wind mitigation discounts on insurance contracts**. The bill removes the requirement that homeowners submit construction records and instead allows evidence of certification to satisfy eligibility for the discount.

A public hearing will be held next Wednesday before the Senate Judiciary Committee on HB198 by Rep. Fridy (R—Birmingham), the **Alabama Assistance and Service Animal Integrity in Housing Act**, despite its smooth approval by House. The hearing was requested by the Alabama Disability Advocacy Program. The bill clarifies a landlord’s right to request documentation to support a tenant’s need for a service animal and establishes a misdemeanor for misrepresenting a need. The hearing will be held at 1:00 p.m. in Room 325 of the statehouse.

HB422 by Rep. Sessions (R—Mobile), which would exempt certain construction projects from **dredging regulations**, is scheduled to be considered by the House Agriculture and Forestry Committee next Wednesday at 3:00 p.m. in Room 410 of the statehouse.

DARK STORE PROPERTY LEGISLATION

The Senate Committee on Fiscal Responsibility adopted a substitute version of Sen. Williams’ proposed dark store property valuation legislation and favorably reported it. The substitute to SB 182 would require that, for protests and appeals of commercial property valuations, a property owner submitting comparables must disclose if the comparable property is occupied or unoccupied and if there are any restrictions on the use of the property, so that the court can

determine if the subject and the comparable property are similarly situated. A companion bill, HB157 by Rep. Ellis (R—Alabaster), remains in the House County and Municipal Government Committee.

JEFFERSON COUNTY AUTOMOBILE RENTAL TAX UPDATE

SB 311, by Sen. Waggoner (R—Birmingham), to amend the trigger to the 2001 three-percent auto rental tax in Jefferson County for the purpose of providing partial financing for a stadium in downtown Birmingham, received a favorable report from the Senate Jefferson County Local Legislation Committee. It is in position to be considered by the Senate on Tuesday, February 20. A companion bill, HB 403, by Rep. Williams (R—Birmingham) is pending in the House Jefferson County Local Legislation Committee.

Two competing bills are currently being advertised and could be introduced next week, including one that would impose an additional six percent auto rental tax and another that would redirect the three percent from the stadium to the sewer system.

The three-percent auto rental tax currently on the books has never been collected due to a provision (hence, the aforementioned ‘trigger’) that requires it to be used only to finance construction of a stadium. Since that time, local officials have not been able to put together a successful plan to build a stadium; possibly, until now. There is a plan with broad support, but bond counsel for the project has advised that the language in the trigger needs to be amended for the revised project.

The House and Senate will reconvene on Tuesday, February 20. There are 18 meeting days remaining in the 2018 Regular Session.