

# FINE GEDDIE

GOVERNMENT RELATIONS

## THE FINE GEDDIE REPORT

2018 REGULAR SESSION · WEEK SEVEN · FEBRUARY 23, 2018

The Alabama Legislature convened for the thirteenth and fourteenth 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.

### *SENATE PASSES GENERAL FUND BUDGET*

The Senate passed a **\$2.04 billion Fiscal Year 2019 General Fund Budget**, reflecting an increase of \$168 million from FY2018, and sent it to the House. The Department of Corrections would receive an increase of \$56 million for Fiscal Year 2019 to address medical and mental health deficiencies in the department and allow the department to begin to address staffing needs, as well as provide funds for a new transitional facility.

Governor Ivey's proposed **\$30 million supplemental appropriation for the Department of Corrections**, to begin addressing the staffing and healthcare needs in the current year, was approved by the Senate Finance and Taxation General Fund Committee this past week and is expected to be debated by the full Senate next week.

### *SWEEPING ETHICS REFORM BILL INTRODUCED*

On Thursday, Senator Marsh (R—Anniston) filed SB383 which proposes sweeping reform of the state ethics law. The bill, drafted by the Attorney General's office, is intended to close loopholes and resolve gray areas in the current law. It would impose the following:

- Prohibit public officials from being lobbyists or serving as consultants for businesses with interests before the Alabama Legislature
- Revise the definition of a principal in order to provide more clarity as to whom the law applies
- Establish the crime of extortion of a public official or employee
- Provide certain exemptions for lower level public employees so that the law focuses on elected officials and high-level government employees
- Revise the definition of a thing of value

We encourage our clients to review the bill and give us feedback so that we can work to see that innocuous interaction necessary to conduct business is not inhibited.

***ALABAMA DATA BREACH NOTIFICATION ACT APPROVED BY  
HOUSE AND SENATE COMMITTEES***

This week, the companion bills to establish the **Alabama Data Breach Notification Act** were approved by the committees in each bill's house of origin. SB318 by Sen. Orr (R—Decatur) was unanimously approved by the Senate Governmental Affairs Committee. HB410 by Rep. Williams (R—Madison) was approved by the House Technology and Research Committee. The bills reflect 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. 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.

The bills were approved by the committees in substitute form to reflect four changes:

- Express clarification that any liability under the Act stems from violations of the notifications provisions (Section 9)
- Technical amendments to make references to “sensitive personally identifying information” consistent so that the liability trigger is more clear (Section 1)
- Clarification that entities must use “any reasonable means consistent with industry standards” rather than “any means” to dispose of sensitive personally identifying information in certain circumstances (Section 10)
- Clarification that the Attorney General has the exclusive authority to bring an action for civil penalties under the Act (Section 9)

A floor substitute is expected should the legislation be considered further. That substitute will address an outstanding concern of the insurance industry, unique to the regulation of that entity. **If you have an issue with this legislation, it is important that you educate us on your specific concern as soon as possible.**

***GOVERNOR SIGNS LEGISLATION TO AUTHORIZE STATEWIDE  
EXPANSION OF TRANSPORTATION NETWORK COMPANIES***

This week, Governor Ivey signed HB190 by Rep. Faulkner (R—Birmingham) and Sen. Singleton (D—Greensboro), to **authorize statewide expansion of transportation network companies**. It is Act No. 2018-127. The newly-enacted law will allow TNCs to operate depending on demand, rather than municipal assent. It would further allow drivers to operate without regard to municipal boundaries. The legislation goes into effect July 1, 2018. The Public Service Commission is expected to promulgate rules in the interim.

A bill signing ceremony will take place next Thursday, March 1, at 11 a.m. at the State Capitol.

### ***OTHER ACTION THIS WEEK***

Act No. 2018-106 by Sen. Holley (R—Elba) related to **public accountancy** was signed by Governor Ivey this week. The new law amends the makeup of the Alabama State Board of Public Accountancy; authorizes the board to classify a public accountant as retired; and shortens 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.

Governor Ivey submitted an executive amendment to SB77 by Sen. Waggoner (R—Birmingham). The bill, as approved by the Legislature, provides that the **Alabama Securities Commission** shall fix the director's salary with approval of the State Personnel Board. The Governor's executive amendment would require the salary to be approved by the Governor, as well, in order to conform with the salary-approval process for other department heads.

HB131 by Rep. Pringle (R—Mobile), related to operations of the **Public Examiner's office**, is pending Governor Ivey's signature. The bill substantially amends the authority of the Chief Examiner of Public Accounts and approved legislation reflects negotiations with numerous government agencies and entities.

The House gave final approval to SB194 by Sen. Reed (R—Jasper), a constitutional amendment related to the structure of the **University of Alabama Board of Trustees**. The measure seeks to clarify that the congressional districts from which trustees are appointed will continue to reflect those as constituted on January 1, 2018 and further proposes the removal of the 70-year age cap for trustees to conform with an amendment previously approved by the Legislature and ratified by voters. Unlike legislation, a constitutional amendment must be approved by referendum.

SB210 by Sen. Stutts (R—Russellville) would establish a **Physician's Initiative** that would provide 100 scholarships for medical students who commit to practice family medicine in underserved areas of the state. This week, the Senate Finance and Taxation Committee on the Education Trust Fund considered the bill for a second time and voted to carry over the bill, as they had previously done two weeks ago, but indicated that they will consider it yet again next week.

HB417 by Rep. Blackshear (R—Phenix City), the **Examination of Bank Service Providers Act**, was carried over by the House Financial Services Committee this week. The bill would authorize the Superintendent of Banks to examine banking service providers. It was carried over, in part, due to concerns expressed by the technology community.

The Senate Judiciary Committee approved HB198 by Rep. Fridy (R—Birmingham), the **Alabama Assistance and Service Animal Integrity in Housing Act**. 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. During the committee meeting, Senator Coleman (D—Birmingham) expressed concerns.

HB422 by Rep. Sessions (R—Mobile), which would establish certain requirements for the **dredging of sand in coastal areas** and provide for certain exemptions related to the Alabama State Port Authority was considered by the House Agriculture and Forestry Committee this week. The bill was carried over.

SB197 by Sen. Smitherman (D—Birmingham), which would prohibit certain online marketing practices by event **ticket resellers**, was approved by the House Commerce Committee. The bill is being promoted as an anti-fraud measure intended to curb the sale of counterfeit or otherwise fraudulent tickets. However, a closer look at the bill reveals that it is an effort by larger ticket resellers to significantly increase market share, possibly eliminate smaller brokers altogether.

### ***SENATE APPROVES DARK-STORE DISCLOSURE BILL***

The Senate approved a substitute version of SB182 by Sen. Williams (R—Gadsden) related to dark store property valuation legislation. The legislation would require property owners, in disputes of commercial property valuations, to disclose whether the comparable property is occupied or unoccupied and any restrictions on the use of the comparable property so that the court can determine if the subject and comparable property are similarly situated. A companion bill, HB157 by Rep. Ellis (R—Alabaster), was approved by the House County and Municipal Government Committee this week.

### ***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, passed the Senate and has been assigned to the House Jefferson County Local Legislation Committee. A companion bill, HB 403, by Rep. Williams (R—Birmingham) is also pending in that committee. The Committee was scheduled to meet to consider both bills this past Thursday, but the meeting was cancelled.

Two competing bills, which have been advertised, have not yet been introduced, 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 House and Senate will reconvene on Tuesday, February 27. There are 16 meeting days remaining in the 2018 Regular Session.*