

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT for the
Alabama Society of CPAs
2019 REGULAR SESSION · WEEK NINE
MAY 10, 2019

LEGISLATURE TAKES UP MAJOR ISSUES:

Broadband Expansion and Lottery Advance, Sweeping Education Reform Proposed

The Legislature worked three full meeting days this week, devoting much of its debate time to topics like abortion, criminal justice reform, medical marijuana and franchisee protection.

On Thursday, the House held extended debate on a bill that would give Governor Kay Ivey greater control of the state's pardons and paroles process, which passed on a generally party-line vote. The Senate adjourned relatively early Thursday after heated debate on stringent pro-life legislation. Tensions seemed to rise when an exception to permit abortion in cases of rape or incest was removed by a voice vote. At present, the Lieutenant Governor may bring the measure up again at any time. Senate President Pro Tempore Del Marsh (R—Anniston) urged senators to use the weekend to further consider the issue.

Multiple proposals to expand **broadband internet access** in Alabama made progress this week, unhampered by intense floor debate on some of the session's most controversial issues. On Wednesday, the Senate unanimously supported SB90 by Sen. Clay Scofield (R—Guntersville), a measure that would retool the state's **broadband accessibility grants**. The bill specifically expands grant eligibility and broadens the permitted use of other federal and state support in grant projects. Most substantially, it creates two additional grant award categories, each of which is intended to incentivize data speeds exceeding the broadband minimums set in legislation. SB90 is currently pending with the House Ways and Means Committee on Education, which is also considering the Education Trust Fund budget including a \$30 million line item for the grant program. Note that support of SB90 is not contingent on the ETF line item as proponents of the grant program are not necessarily pushing for the large amount.

Meanwhile, HB400 to allow **electric utilities to use their easements to offer broadband service**, received a committee assignment in the Senate, where it is expected to be considered next week. The bill by Rep. Randall Shedd (R—Cullman) is pending with the Senate Fiscal Responsibility and Economic Development Committee.

Also in the upper chamber, the Senate Transportation and Energy Committee conducted a public hearing and approved SB264 (as substituted) by Sen. Arthur Orr (R—Decatur). The bill, pending third reading in the Senate, would authorize wireless providers to install **small wireless facilities on the public right-of-way**. In the lower chamber, the House Transportation, Utilities and Infrastructure Committee conducted a public hearing on HB70 by Rep. David Standridge (R—Hayden), which would allow **broadband infrastructure near railroad rights-of-way and crossings**. HB70 is currently pending in that committee, and the companion, SB159 by Sen. Donnie Chesteen (R—Geneva), is pending in the Senate Finance and Taxation Committee on Education.

The proposed statewide referendum to establish an Alabama **lottery** inched forward this week with a modification that could hold the key to securing voter support on the ballot measure. The House Economic Development and Tourism Committee conducted a public hearing on SB220 by Sen. Greg Albritton (R—Atmore) Thursday, adding an amendment to send 25% of proceeds to public education, with the remainder earmarked for the General Fund budget. The committee is expected to vote on SB220 next week. In a somewhat similar vein, **daily fantasy sports contests** would be legalized under HB361 by Rep. Kyle South (R—Fayette). After extended debate Wednesday, the bill passed its third reading in the House on a 74-22 vote with two amendments.

Although only 12 meeting days remain in the current session, major legislation is still being introduced, starting with sweeping reforms of **K-12 education**. On Thursday, Sen. Marsh introduced SB397 with support from Gov. Kay Ivey. Among other provisions, the bill would change the **state board of education** from an elected body to an appointed one. The bill is pending in the Senate Education Policy Committee.

MEDICAL MARIJUANA MOVES FORWARD BUT DECRIMINALIZATION STALLS

A comprehensive **medical marijuana** proposal received third reading in the Senate this week with a 17-6 vote. As substituted on the Senate floor, SB236 is now pending in the House Health Committee. The bill is sponsored by Sen. Tim Melson (R—Florence), a physician. Also pending in the House Health Committee is the House companion to Sen. Melson's bill – HB243 by Rep. Mike Ball (R—Madison). However, an effort to **reduce criminal penalties for marijuana possession** failed to advance. The House Judiciary Committee debated HB96, which is by Rep. Laura Hall (D—Huntsville), before referring it to a Subcommittee on Criminal Justice. The subcommittee is expected to meet next week. In the Senate, a related measure – SB98 by Sen. Bobby Singleton (D—Greensboro) is pending third reading as substituted.

MARKETPLACE REFORM FOR ALCOHOLIC BEVERAGES

Delivery services for alcoholic beverages were the subject of a public hearing in the House Economic Development and Tourism Committee on Wednesday. The bill – HB519 by Rep. Gil Isbell (R—Gadsden) – is currently pending in that committee. A companion bill – SB368 by Sen. Shay Shelnett (R—Trussville) – is pending in the Senate Fiscal Responsibility and Economic Development Committee. A task force to study the **direct shipment of wine** would be created by SJR64 by Sen. Jabo Waggoner (R—Vestavia Hills) which, if approved, is a sign that statutory authorization for direct shipment will be delayed pending consideration by the task force. The joint resolution is currently pending in the House Rules Committee. HB350 by Rep. Terri Collins (R—Decatur) is pending third reading in the House with a substitute.

There was no movement this week on the following:

- **Wine festival authorization** – SB269 by Sen. Andrew Jones (R—Centre) is pending third reading in the House with one amendment.
- **Entertainment district** revision – HB474 by Rep. Neil Rafferty (D—Birmingham) and SB276 by Sen. Rodger Smitherman (D—Birmingham) are each pending third reading in their respective house of origin.
- **Tasting rooms at breweries, wineries and distilleries** – HB542 by Rep. Becky Nordgren (R—Gadsden) is pending in the House Economic Development and Tourism Committee.
- Revised regulation of the **contractual relationship between beer suppliers and wholesalers** – SB346 by Sen. Cam Ward (R—Alabaster) is pending in the Senate Tourism and Marketing Committee. HB391 by Rep. Chip Brown (R—Mobile) is pending in the House Commerce and Small Business Committee.
- Shifting the point of **taxation for breweries and brewpubs** – HB494 by Rep. Becky Nordgren is pending third reading in the House.
- Legalization of **infused or flavored alcoholic beverages** for on-premises consumption – HB46 by Rep. Chris England (D—Tuscaloosa) is pending third reading in the Senate.

HEALTHCARE UPDATE

Pharmacy benefit managers would be required to register with the Alabama Department of Insurance and would not be able to prohibit pharmacies from providing certain drug cost information to consumers pursuant to a bill that received a favorable report this week from the Senate Health Committee. SB73 by Sen. Arthur Orr (R—Decatur) was substituted and amended after extended negotiations between independent pharmacies and pharmacy benefit managers. The bill is now pending third reading in the Senate.

Patient education on opioid risks would become mandatory for many healthcare providers under SB48 by Sen. Andrew Jones (R—Centre). This week the Senate Health Committee gave a favorable report to a substitute version that exempts veterinarians. The bill is pending third reading in the Senate.

The proposed **Alabama Injection-Associated Infectious Disease Act** would authorize pilot programs to fight diseases commonly transmitted among users of injectable drugs. The bill – SB235 by Sen. Bobby Singleton (D—Greensboro) – received a favorable report from the Senate Healthcare Committee with a substitute and an amendment. The committee-approved changes would limit pilot programs to Jefferson County and extend civil and criminal immunity to referring physicians. The bill is now pending third reading in its house of origin. The companion proposal – HB444 from Rep. Proncey Robertson (R—Mount Hope) – is pending in the House Health Committee.

Permitting pharmacists to substitute **interchangeable biological products** was the subject of public hearing this week. SB245 by Sen. Tom Butler (R—Madison) is pending in the House Health Committee. **Electronically transmitted prescriptions** would have to indicate if **generic drugs** may be dispensed if HB69, which is by Rep. Arnold Mooney (R—Birmingham). The bill is pending in the Senate Healthcare Committee.

TRANSPORTATION UPDATE

Streamlined registration and licensing for **fleet vehicles** crossed the finish line this week, when Gov. Kay Ivey signed the proposal by Rep. A.J. McCampbell (D—Gallion) into law. It is now Act 2019-129.

SB246 by Sen. Orr (R—Decatur), to create a grant program for **inland port and intermodal facility enhancements**, received unanimous approval by the Senate this week. As originally written, the grant program would be funded with \$10 million from the Rebuild Alabama fund. The bill was amended on the floor to provide that the money would come from the Public Road and Bridge Fund. The grant program would be administered by ADECA. Some lawmakers are considering addressing the issue through the General Fund budget but, to advance, the proposal will need to avoid a funding mechanism reserved for road construction.

A bill to lower the age of eligibility for certain **commercial drivers' licenses** received a favorable report from the Senate Transportation and Energy Committee this week. HB479 by Rep. Dexter Grimsley (D—Newville) is pending third reading in the Senate, and a favorable floor vote would send it to the governor's desk. The Senate companion – SB318 by Sen. Donnie Chesteen (R—Geneva) – is also pending third reading in the Senate with one amendment.

Proposed **income tax credits for alternative fuel motor vehicles** did not advance this week. SB94, by Sen. Bobby Singleton (D—Greensboro), had been scheduled

for consideration Wednesday in the Senate Finance and Taxation Committee on the General Fund, where it is still pending.

HB163 by Rep. Steve McMillan (R—Bay Minette) would authorize the state revenue commissioner to **temporarily waive licensing requirements for importers, exporters and transporters of motor fuels** during a declared state of emergency or disaster. On Tuesday, the House concurred with a Senate amendment, and the bill is currently pending with Gov. Kay Ivey.

There was a great deal of activity this week regarding **railroads**. The **Safe Freight Act** would prohibit the operation of many trains unless there is a crew of at least two people. **HB484** is by Rep. Napoleon Bracy (D—Mobile), and it was the subject of a public hearing this week in the House Transportation, Utilities and Infrastructure Committee, where the bill is still pending. The proposed **Railroad Modernization Act** would establish a state income tax credit for qualified railroad reconstruction or replacement expenditures. The bill – **SB185** by Sen. Bobby Singleton (D—Greensboro) – was removed from Wednesday’s agenda for the Senate Finance and Taxation Committee on the General Fund. The bill remains pending with that committee. Sen. Singleton is also sponsoring two bills (**SB186** and **SB291**) that are pending with the Senate Finance and Taxation Committee on Education. A similar measure – **HB457** by Rep. Rod Scott (D—Fairfield) – is pending third reading in the House with a substitute and an amendment.

Autonomous vehicles would be legal in Alabama under a pair of proposals that advanced this week. **HB160** by Rep. Joe Lovvorn (R—Auburn) received a favorable report as substituted and amended (amendment one, two, three) from the House Public Safety and Homeland Security Committee. It is now pending third reading in the House. In the Senate, **SB47** by Sen. Gerald Allen (R—Tuscaloosa) received a favorable report as substituted and amended (amendment one, two, three) from the Senate Transportation and Energy Committee. It is pending third reading in the Senate.

OTHER ISSUES TO WATCH

- **HB255** by Rep. Adline Clarke (D—Mobile), to create a state cause of action related to **wage discrimination**, was approved by the House Commerce and Small Business Committee this week. The committee approved a substitute bill that would not apply to smaller businesses with less than 50 employees. Proponents of the bill have argued that Alabama is one of only two states (the other being Mississippi) without a similar law on the books.
- The **Financial Institution Excise Tax Reform Act of 2019** passed the House on third reading Wednesday. **HB419** by Rep. Kyle South (R—Fayette) codifies certain FIET procedures, imposes estimated FIET payments (effectively changing the post-payment system under current law to a pre-

payment model), and provides for an alternative distribution formula for counties and municipalities. The bill was amended in committee to address a potential issue for tax-exempt credit unions that report no federal taxable income. A second amendment was added on the House floor. The bill is currently pending in the Senate Banking and Insurance Committee.

- Economic development incentives would get an extensive update with HB540 introduced by Rep. Bill Poole (R—Tuscaloosa). Dubbed the **Alabama Incentives Modernization Act**, the bill would add new tools for the attraction and expansion of businesses in rural Alabama, as well as high-tech companies statewide. It is pending in the House Ways and Means Committee on Education.
- The **Protect Small Business Act** to regulate interactions between **franchisors and franchisees** saw floor debate in the Senate on Wednesday. The following day, senators voted 21-2 in favor of the bill, SB129 by Sen. Chris Elliott (R—Fairhope). Notably, it has been assigned to the House State Government Committee, unlike its companion bill. The House Commerce and Small Business Committee conducted a public hearing before giving a favorable report to HB 352 introduced by Rep. Connie Rowe (R—Jasper). Rep. Rowe’s bill is pending third reading in the House.
- No action was recorded this week on a **telephone solicitation** crackdown that had been the subject of a public hearing the previous week. HB40 by Rep. Craig Lipscomb (R—Gadsden) is pending with the House Technology and Research Committee, which did not meet this week. Other proposals on this subject showed no activity this week.
- HB430 by Rep. Steve Clouse (R—Ozark), to require keystroke logging **software for certain government contractors** and state employees, had no opportunity to move this week. The House Technology and Research Committee conducted a public hearing last week but took no action, and the committee did not meet this week.
- A proposed **tax credit for qualified research expenses** is still pending third reading in the House with one amendment. HB424 is carried by Rep. Joe Lovvorn (R—Auburn). A closely related proposal from the Senate – SB78 by Sen. Arthur Orr (R—Decatur) – is still pending in the House Ways and Means Committee on Education.
- SB297 by Sen. Sam Givhan (R—Huntsville) would increase the amount-in-controversy threshold for **circuit court jurisdiction** from \$10,000 to \$25,000, raising concerns that district courts would be overloaded. The bill is still pending in the Senate Judiciary Committee. **Minimum qualifications for circuit and district judges** would increase with HB529 by Rep. David Faulkner (R—Birmingham). The bill received a favorable report from the House Judiciary Committee this week and is now pending third reading in the House.

- The crime of **aggravated fraud** would be created by HB57 by Rep. Chris Sells (R—Greenville). The bill received a favorable report from the Senate Judiciary Committee this week and is now pending third reading in the Senate. A favorable floor vote would send the bill to the governor’s desk.
- The **Simplified Sellers Use Tax** remittance program has increased state and local revenue from online purchases, and SB153 would update the program’s amnesty and class action provisions. The bill, by Sen. Tim Melson (R—Florence), received a favorable report with one amendment on Wednesday from the House Ways and Means Committee on the General Fund. It is now pending third reading in the House. The House companion – HB183 by Rep. Rod Scott (D—Fairfield) – is still in its original form and currently pending third reading in the Senate.
- Local governments would be prohibited from **banning plastic shopping bags** under SB244, which is by Sen. Steve Livingston (R—Scottsboro). The bill, which did not advance this week, is still pending third reading in the Senate, its house of origin. It did not come up for consideration after missing a procedural vote by one vote. The companion bill – HB346 by Rep. Nathaniel Ledbetter (R—Rainsville) – is also pending third reading in the House.
- Colleges and universities would be required to adopt a **free-speech policy** under HB498 by Rep. Matt Fridy (R—Montevallo). The House Education Policy Committee conducted a public hearing on the measure Wednesday and then reconvened on Thursday, voting to give the bill a favorable report with one amendment. The bill is pending third reading in the House, its house of origin.
- The Public Service Commission could gain regulatory authority over **private sewer systems using public rights-of-way** in Shelby County with HB340 by Rep. Arnold Mooney (R—Birmingham). The proposed constitutional amendment, considered a local bill of general application, calls for a county-wide referendum on the question. The legislation received a favorable report from the House Transportation, Utilities and Infrastructure Committee this week, and it is currently pending third reading in the House. The companion bill – SB257 by Sen. Jabo Waggoner (R—Vestavia Hills) is pending with the Senate Governmental Affairs Committee.
- The Department of Revenue would be required to develop a **financial institution data match program** to help facilitate collection of unpaid taxes if HB420 by Rep. Kyle South (R—Fayette) becomes law. It received a favorable report from the Senate Banking and Insurance Committee on Tuesday and is currently pending third reading in the Senate. The companion bill – SB357 by Sen. Rodger Smitherman (D—Birmingham) – is pending in the Senate Governmental Affairs Committee.

- **Call centers** receiving economic development incentives would have a new requirement under SB110 by Sen. Cam Ward (R—Alabaster). The bill as substituted received a favorable report from the House State Government Committee on Tuesday. It would require these call centers to notify the state prior to relocating or face penalties and permit the Alabama Department of Economic and Community Affairs to recapture benefits such as grants, loans or tax credits. The bill also has provisions requiring state agencies and their contractors to use in-state call centers for customer service and support. SB110 is pending third reading in the House. A similar bill – HB94 from Rep. Tim Wadsworth (R—Arley) – is pending with the House State Government Committee.
- Businesses that would be negatively impacted by a state agency’s proposed rule change have a method to notify the state, forcing the agency to submit an **economic impact statement** to the **Joint Committee on Administrative Regulation Review**. SB 204 by Sen. Greg Albritton (R—Atmore) would revise this process and revise how state agencies respond to such notifications. The bill, which was scheduled for consideration in the House State Government Committee this week, did not make any progress. It is still pending in that committee.
- Many **legal notices** would no longer be published in newspapers with the Legal Notice Savings and Modernization Act, which would shift notices to a website operated by the secretary of state. HB576 by Rep. Andrew Sorrell (R—Muscle Shoals), is pending in the House State Government Committee.
- SB266 by Sen. Larry Stutts (R—Tuscumbia) would redefine the common law standard used to guide decisions about **child custody**. It passed the Senate last week and was scheduled for House committee consideration on Wednesday, but the chairman removed it from the agenda. The bill is still pending in the House Children and Senior Advocacy Committee.

The House and Senate will reconvene on Tuesday, May 14. There are 12 meeting days remaining in the 2019 Regular Session.