

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT

2020 REGULAR SESSION

MAY 8, 2020

RAPID BUDGET-WRITING FOR 2021

After an extended COVID-19 interruption, Alabama legislators have shifted into overdrive this week. In just five days of work, they have sent one budget to Gov. Kay Ivey's desk and the second budget is not far behind. Meanwhile, tensions are boiling over as the legislative and executive branches jockeyed for control of the \$1.9 billion in federal funding related to the virus. The Legislature has offered the Governor several options for funding amounts over which she would have full authority, but she announced yesterday that she wants to cede full authority over those funds to the Legislature in exchange for complete transparency. This was a surprise move by her office after initially asserting authority over the entire amount.

The \$2.4 billion General Fund budget passed the Senate Tuesday, passed the House on Thursday and received Senate concurrence with House changes the same day. Though scaled back from pre-virus projections, it is still \$171 million more than the current year's appropriations. The General Fund supports most non-education functions of state government, with corrections and Medicaid taking the biggest shares. A proposed state employee pay raise was scrapped in COVID-19 belt-tightening, and the General Fund budget is pending with the governor. It would give her control of \$200 million in COVID-19 funds, leaving \$1.7 billion for the Legislature to appropriate. The General Fund budget is pending the Governor's signature.

The expected teacher pay raise is gone from the \$7.1 billion Education Trust Fund budget as it passed the House this week. Although it is reduced from pre-virus expectations, the budget includes \$91 million in additional spending, plus \$34 million in funds reallocated from the PACT program and PSCA bond payments for a total of \$125 million available in newly available funds. The Senate Finance and Taxation Committee on the Education Trust Fund passed a substitute version of that budget this afternoon. A \$260 million supplemental appropriation from the Advancement and Technology Fund for the current fiscal year is traveling with the education budget.

Despite budget tightening for the upcoming year, one of Gov. Kay Ivey's key education initiatives has survived — the \$1.25 billion education bond issue. [SB242](#)

by Sen. Arthur Orr (R—Decatur) passed the House and Senate this week and is pending with the governor.

COVID-19 HEALTH ORDERS AND CIVIL LIABILITY CONCERNS

The Governor updated her “Safer at Home” order today. This new order will go into effect on Monday, May 11, and allows for restaurants, athletic facilities, and close-contact service providers to open so long as social distancing practices are in place.

Civil liability has been a major topic of discussion this week. SB330 by Sen. Arthur Orr (R—Decatur), known as the Safe Harbor for Business Act, was introduced Monday and approved Tuesday by the Senate Finance and Taxation Committee on Education. The bill is the product of negotiations between the plaintiffs’ bar and the business community. As of Friday morning, it is in position for a Senate floor vote at any time. The House has indicated that they will not take up this issue, however, due to an agreement among members to consider a set agenda. In light of this, the Governor issued the 8th Supplemental Health Order today to provide liability protections for businesses and health care providers. Under the order, claimants must demonstrate clear and convincing evidence that a business’s or healthcare provider’s actions rose to the level of wanton, reckless, willful, or intentional misconduct.

The Governor issued the 9th Supplemental Health Order today as well. One provision allows for probate judges to improve procedures for administering the July 14th primary runoff election. For example, probate judges would be allowed to reduce the number of poll workers, if necessary. They would also be allowed to conduct poll-worker training remotely. Another provision cuts red tape for electric co-ops seeking to obtain emergency loans. This will help ensure that electrical co-ops are still able to provide electricity to their members during this public health emergency. A final provision will extend the formal “public health emergency” for 60 days, beginning May 13. The extension is standard practice in an emergency and is similar to action taken in response to the BP Oil Spill and the 2011 tornadoes.

We have attached copies of the health orders for your information.

NURSING HOME REGULATION

Nursing homes would receive additional funding under HB401 by Rep. Steve Clouse (R—Ozark), which passed the House on Thursday. The bill would increase the **nursing facility privilege assessment**, set a method for calculating current asset value and authorize the Alabama Medicaid Agency to create a quality incentive program. The companion is SB278 by Sen. Greg Albritton (R—Atmore).

HIGH-PROFILE LEGISLATION SIDELINED

The pandemic's disruption of the legislative process has sidelined some high-profile issues that are unlikely to see further movement in the session's remaining days.

- **Alcoholic Beverage Marketplace:** HB445 by Rep. Terri Collins (R—Decatur) would require licensed importers and manufacturers of wine to enter into **exclusive franchise agreements with wholesalers**, and it is pending in the House Economic Development and Tourism Committee. Rep. Collins is also sponsoring HB365 to permit the **direct shipment of wine** to consumers, which is waiting for a floor vote in the House. Also awaiting floor consideration in the House is HB407 by Rep. Gil Isbell (R—Gadsden) to allow **beer and wine deliveries**.
- **Open Records:** The controversial proposed **rewrite of Alabama's open records law** backed by the Alabama Press Association — SB57 by Sen. Cam Ward (R—Alabaster) — is pending in the Senate Governmental Affairs Committee.
- **Pharmacy Benefit Managers:** Independent pharmacies have promoted legislation to regulate **pharmacy benefit managers** and **pharmacy networks**, but opponents insist it would jeopardize cost-savings on prescription drugs. SB236 by Sen. Tom Butler (R—Madison) is pending with the Senate Banking and Insurance Committee. The companion — HB345 by Rep. Ron Johnson (R—Sylacauga) — is pending with the House Insurance Committee.
- **Critical Infrastructure:** Damaging or surveilling **critical infrastructure** would carry enhanced penalties under SB45 by Sen. Cam Ward (R—Alabaster), which has passed the Senate. The bill would specify what constitutes illegal drone activity, revise the criminal trespass law and clarify that pipelines and mining operations are critical infrastructure. The companion is HB36 by Rep. Chip Brown (R—Mobile).
- **Medical Marijuana:** SB165 by Sen. Tim Melson, M.D. (R—Florence) would establish a comprehensive medical marijuana program in the state. In its current form, the bill contains workers' compensation provisions favorable for the business community. The bill passed the Senate and is pending with the House Health Committee.

The House and Senate have adjourned for today (Friday, May 8) and will return again tomorrow. The last possible day of the Regular Session is May 18.