

# FINE GEDDIE

GOVERNMENT RELATIONS

## THE FINE GEDDIE REPORT 2020 REGULAR SESSION · WEEK FIVE MARCH 6, 2020

### *SUPER TUESDAY SETS UP FEDERAL RUNOFFS*

Tuesday's primary election results yielded hotly contested runoffs for March 31, with a GOP U.S. Senate battle between former Auburn football coach Tommy Tuberville and former U.S. Senator and Attorney General Jeff Sessions. Tuberville bested the crowded field on Tuesday with Sessions close behind. Congressman Bradley Byrne of Mobile finished third. The runoff winner will face incumbent Senator Doug Jones (D—AL) in the November general election.

Byrne's fellow incumbent congressmen were either unopposed or won handedly. There are GOP runoffs in two Congressional districts, where open seats drew large numbers of candidates. In District 1, Mobile, former State Senator Bill Hightower faces Mobile County Commission President Jerry Carl. Hightower received an early endorsement by Club for Growth. In District 2, businessman Jeff Coleman faces former State Representative Barry Moore. Both men are from the more rural, southeastern part of the district, which extends from the Florida and Georgia lines to north of Montgomery.

The state's results were conclusive at the presidential level, with Donald Trump and Joe Biden winning their respective races. As for statewide judicial races, incumbents on the Alabama Supreme Court and Court of Civil Appeals were either unopposed or reelected convincingly. State Representative Matt Fridy (R—Alabaster) won his bid for an open seat on the Alabama Court of Civil Appeals.

In Alabama, Super Tuesday ballots also featured a constitutional amendment that would have shifted the state from an elected state school board to one appointed by the governor. The amendment was defeated in a landslide.

### *TAX CUTS AND JOBS ACT*

Recommendations of the **Joint Legislative Task Force on the Tax Cuts and Jobs Act** have been dubbed the Alabama Business Tax Competitiveness Act. Among the major provisions are revisions to:

- Reductions in the corporate income tax and financial institution excise tax rates from 6.5% to 4.75%
- Repeal of the corporate federal income tax deduction

- Move from the current double-weighted sales factor apportionment formula to the more common single sales factor for corporate income tax; and repeal the throwback rule
- Decouple Alabama income tax law from GILTI and FDII as well as IRC Section 118
- Limit the application of the federal Section 163(j) business interest expense limitation where the taxpayer is a member of a federal consolidated group that is not subject to the business interest limitation. The Alabama taxpayer would not be subject to the limitation if the federal consolidated group is not subject to the 163(j) limit and
- Provide an elective pass-through entity of 3.95% allowing partnerships, LLCs, LPs, and S Corps to elect to be treated as an Alabama C corporation for Alabama income tax purposes. This would relieve the owners from reporting the entity's income and its state and local taxes which might otherwise be capped at the individual level by the \$10,000 SALT cap.

*Clients are encouraged to review the legislation carefully and provide feedback to the Fine Geddie team.* The bills are [SB249](#) and [SB250](#) by Sen. Dan Roberts (R—Birmingham); and the companions – [HB352](#) and [HB353](#) – are sponsored by Rep. Danny Garrett (R—Trussville).

## 5G INTERNET CONNECTIVITY MOVES FORWARD

Wireless providers would be authorized to install **small wireless facilities on the public right-of-way** for the purpose of deploying **5G technology** under [SB172](#) by Sen. Arthur Orr (R—Decatur), which received multiple revisions this week. The Senate approved it, as amended, on Thursday.

## WIDE-RANGING GAMBLING PROPOSAL SURFACES

A significant **gambling** proposal was unveiled Thursday when Sen. Greg Albritton (R—Atmore) introduced [SB282](#). The proposed constitutional amendment would establish an **education lottery** and a **gaming commission** to oversee bingo, charitable bingo, pari-mutuel wagering and casino-style games in the state; and it would require the governor to negotiate a compact with the Poarch Band of Creek Indians, based in Atmore. The bill is pending before the Senate Tourism Committee.

## OCCUPATIONAL TAX BAN ENACTED

On Tuesday afternoon, Gov. Kay Ivey signed [Act 2020-14](#), creating new limitations on the establishment of **occupational taxes** – effective immediately. The act, better known as HB147 by Rep. Chris Sells (R—Greenville), got a cold reception in the Capital City, where Montgomery officials have pledged to “explore all legal options” to preserve local decision-making on the issue.

## PORT AUTHORITY APPOINTEES CONFIRMED

This week, three members of the **Alabama Port Authority** received Senate confirmation for additional terms. Gov. Kay Ivey had reappointed Ben Stimpson Jr., Daryl Dewberry and Horace Horn Jr.

## HEALTHCARE ROUNDUP

- Two proposals, both endorsed by Gov. Kay Ivey, aimed at improving **mental healthcare and services** advanced this week. Rep. Wes Allen (R—Troy), a former probate judge, is sponsoring HB340 to allow law enforcement to take individuals with mental illness into protective custody in certain situations. It was approved by the House Judiciary Committee on Wednesday. House Majority Leader Rep. Nathaniel Ledbetter (R—Rainsville) is sponsoring HB341 to put a mental health service coordinator in every K-12 school system, and that legislation received a favorable report as amended from the House Education Policy Committee.
- HB269 by Rep. Chris Sells (R—Greenville) would **increase Medicaid reimbursement rates for certain ambulance services**. It was approved by the House on Thursday.
- **Gender change therapy for minors** would be banned by SB219 from Sen. Shay Shelnutt (R—Trussville), which passed the Senate on Thursday. The companion is HB303 from Rep. Wes Allen (R—Troy), as amended.
- Alabama's **Business & Nonprofit Entities Code** would be substantially revised and modernized by a nearly 300-page proposal under consideration this year. HB202 by Rep. Bill Poole (R—Tuscaloosa) received a favorable report this week from the Senate Fiscal Responsibility and Economic Development Committee. The companion is SB206 by Sen. Sam Givhan (R—Huntsville).
- People with **disabilities** would be protected from **organ transplant discrimination** under HB58 by Rep. Debbie Wood (R—Valley), and the bill received a favorable report from the Senate Healthcare Committee this week. The committee also gave a favorable report to the companion, SB225 by Sen. Randy Price (R—Opelika).
- The **ratio of nurse practitioners to physicians** would be adjusted under SB114 from Sen. Jim McClendon (R—Springville), and on Thursday the Senate approved the measure.

## BANKING & INSURANCE ROUNDUP

- To combat **elder abuse**, HB207 by Rep. Chris Blackshear (R—Phenix City) would grant financial institutions authority to delay or refuse certain transactions involving accounts of elderly or vulnerable adults. It passed the House this week. The companion is SB166 by Sen. Shelnutt (R—Trussville).

- HB221 by Rep. David Faulkner (R—Birmingham) would expand on **hospital lien** changes enacted in 2019. It received a favorable report as substituted from the House Insurance Committee this week.
- **Actuary requirements for the insurance industry** would be adjusted under HB354 by Rep. Kerry Rich (R—Guntersville), and it received a favorable report this week from the House Insurance Committee.
- **Reinsurance** regulations would be revised by SB54 by Sen. Shelnett (R—Trussville), which was debated on the Senate floor Thursday but was carried over to the call of the chair.
- Known as the **Alabama State of Emergency Consumer Protection Act**, HB194 by Rep. Matt Simpson (R—Daphne) would make it a felony offense for unlicensed contractors to perform certain services on homes and businesses damaged in a declared disaster, and passed the House as substituted on Thursday. The bill is backed by Attorney General Steve Marshall, and the companion – SB135 by Sen. Price (R—Opelika) –passed the Senate this week.

## *ECONOMIC DEVELOPMENT ROUNDUP*

- Both chambers of the Alabama Legislature have now adopted SJR23 by Sen. Jabo Waggoner (R—Vestavia Hills), commending Alabama’s **record export sales in 2019**.
- **Tax breaks for airport authorities** would be expanded if HB391 by Rep. Rex Reynolds (R—Huntsville) becomes law. The bill was introduced Thursday.
- Multiple recommendations from the **Military Stability Commission** advanced this week. SB53 by Sen. David Burkette (D—Montgomery) received a favorable report from the House Ways and Means Committee on the General Fund. It would authorize a **local redevelopment authority for property contiguous to an active U.S. Air Force installation**, and its companion – HB66 by Rep. Thad McClammy (D—Montgomery) – received a favorable report from the Senate Fiscal Responsibility and Economic Development Committee. Meanwhile, SB143 by Sen. Donnie Chesteen (R—Geneva), clarifying when **military dependents** can enroll in **virtual schools**, received a favorable report from the House Military and Veterans Affairs Committee. The companion is HB100 by Rep. Randall Shedd (R—Cullman).
- A proposal that would have linked eligibility for **Alabama Department of Economic and Community Affairs grants** to compliance with **municipal plan** requirements had been narrowed in committee to primarily increase accountability and reporting related to municipal plans. As amended, SB124 by Senate President Pro Tempore Del Marsh (R—Anniston) was considered on the Senate floor this week but was carried over to the call of the chair.
- **Community development districts** would be possible in dry counties with passage of SB133 by Sen. Steve Livingston (R—Scottsboro), which this week received its third reading in the Senate as substituted.
- Counties and municipalities could designate tourism improvement districts if

HB382 by Rep. Lynn Greer (R—Rogersville) becomes law. The bill was introduced this week.

## OTHER ISSUES TO WATCH

### EDUCATION

- Term limits for **Alabama Community College System trustees** would be clarified under HB402 by Rep. Steve McMillan (R—Bay Minette), which was introduced this week.
- Sen. Tom Whatley (R—Auburn) introduced SB269 this week to roll back parts of the **Alabama Literacy Act**, chiefly the stipulation that third graders reading below grade-level could not be promoted to the fourth grade.
- Gov. Kay Ivey’s proposed **education bond issue** grew to \$1.25 billion this week. SB242 by Sen. Arthur Orr (R—Decatur) would authorize borrowing to fund capital improvements at public schools, community colleges and institutions of higher education. In the Senate Finance and Taxation Committee on Education, the bill received a favorable report and two amendments (amendment 1, amendment 2).
- SB128 by Sen. Dan Roberts (R—Birmingham) would give the **Alabama Community College System** trustees control over tenure and discipline of faculty and staff in lieu of the Students First Act of 2011. The bill received a favorable report from the Senate Education Policy Committee, as amended.

### ALCOHOLIC BEVERAGE MARKETPLACE

- **Delivery and/or direct shipment of alcoholic beverages** continues to be a popular issue this session. SB240 by Sen. Bobby Singleton (D—Greensboro), permitting wine shipments to consumers, was introduced last week. This week, Rep. Terri Collins (R—Decatur) filed a companion. Another pair of bills were filed this week to address beer and wine delivery – SB264 by Sen. Jabo Waggoner (R—Vestavia Hills) and HB407 by Rep. Gil Isbell (R—Gadsden). Additionally, Sen. Waggoner filed SB281 affecting wine shipments.
- Sen. Tom Whatley (R—Auburn) introduced SB155, which would permit sales of beer and wine via **drive-through or walk-up window**. It received a favorable report as amended by the Senate Governmental Affairs Committee.

### TAX COLLECTION

**Private auditing or tax collecting firms** working on behalf of a county or municipality would be barred from recovering certain costs from taxpayers under HB158 by Rep. Paul Lee (R—Dothan), which was approved by the Senate this week. It is now pending with the governor.

### STATE AGENCIES

- A single bill affecting the **Alabama Department of Labor** would make changes in

two separate areas of responsibility for the agency. HB351 by Rep. Danny Garrett (R—Trussville) received a favorable report from the House State Government Committee this week. The bill would alter language governing **unemployment compensation, surface mining** and the **Special Abandoned Mine Reclamation Trust Fund**.

- The “**sunset bill**” for continued operation of the **Public Service Commission** received a favorable report from the House Boards, Agencies and Commissions Committee this week.
- The **revolving door provision** of the state ethics law limits the activities of former public officials and employees for the first two years after leaving their public positions, and HB114 by Rep. Prince Chestnut (D—Selma) revising it received a favorable report with one amendment from the House Ethics and Campaign Finance Committee this week.
- SB140 to create a **Statewide Emergency Notification System** made progress this week, passing the House on Thursday. The bill by Sen. Bobby Singleton (D—Greensboro) is pending Senate concurrence.
- **State employees** would be eligible for an **enhanced, Tier III retirement benefit** under HB268 by Rep. Reed Ingram (R—Mathews), which received a favorable report this week from the House Ways and Means Committee on the General Fund. The companion is SB201 by Sen. Barfoot (R—Pike Road).

#### TRANSPORTATION

- Damaging or surveilling **critical infrastructure** would carry enhanced penalties under SB45 by Sen. Cam Ward (R—Alabaster), which was debated on the Senate floor Thursday before being carried over to the call of the chair. 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).
- Regulation of **automated commercial motor vehicles** is addressed by a measure introduced this week – HB361 by Rep. Joe Lovvorn (R—Auburn). The companion is SB229 by Sen. Gerald Allen (R—Tuscaloosa).
- HB284 by Rep. Ginny Shaver (R—Leesburg) would revise **boater safety regulations**, and it received a favorable report as amended (amendment 1, amendment 2) from the House Public Safety and Homeland Security Committee this week. Some of the committee changes were intended to address concerns raised by the Alabama Port Authority.

#### NICOTINE

HB119 by Rep. Barbara Drummond (D—Mobile) would **raise the minimum age to purchase** nicotine products to 21. The bill was subject to a public hearing before being approved by the House State Government Committee this week.

#### PROCUREMENT

- **State procurement of supplies and services** would be thoroughly modernized under SB182 by Sen. Arthur Orr (R—Decatur), which passed the Senate this week. The bill was amended to exempt the Alabama State Port Authority. The companion is HB239 by Rep. Danny Garrett (R—Trussville). The legislation, which originated with a committee of the Alabama Law Institute, has no impact on local governments or the legislative and judicial branches.
- Related legislation was introduced this week to create a **disadvantaged business enterprise program** within the new procurement system. It is SB257 by Sen. Bobby Singleton (D—Greensboro) with a companion, HB396 by Rep. Barbara Drummond (D—Mobile).

## GUNS

- A **statewide pistol permit** would be created by SB47 from Sen. Randy Price (R—Opelika). The Senate Judiciary Committee conducted a public hearing on the bill, supported by Alabama sheriffs, and then gave it a favorable report this week. The companion is HB39 by Rep. Poncey Robertson (R—Mount Hope).
- The need for **pistol permits** would be sharply reduced under SB1 by Sen. Gerald Allen (R—Tuscaloosa), which was the subject of a public hearing in the Senate Judiciary Committee this week. The committee gave the bill a favorable report.

## MISCELLANEOUS

- A **disaster or emergency declaration** would trigger temporary changes for **motor vehicle fuel tax and registration** under SB112 by Sen. Figures (D—Mobile), which passed the Senate on Thursday. The companion, HB180 by Rep. McMillan (R—Bay Minette), passed the House on Thursday, as well.
- SB170 by Sen. Rodger Smitherman (D—Birmingham) provides for the creation and enforcement of **non-disparagement obligations in contracts**. It was a late addition to the Senate Judiciary schedule this week, and was withdrawn prior to the meeting at the bill sponsor's request.
- The **definition of a landfill** would be clarified by HB140 by Rep. Alan Baker (R—Brewton), and it received its third reading and final passage in the Senate on Thursday. It is now pending with the governor.
- The loan payback period for **wastewater treatment facilities** would be extended under HB13 by Rep. Randy Wood (R—Anniston), which was approved by the House this week.
- SB271 by Senator Waggoner (R—Birmingham) is a constitutional amendment proposal that would subject certain **private water systems** to the jurisdiction of the Public Service Commission.

*The House and Senate will reconvene on Tuesday, March 10. There are 20 meeting days remaining in the 2020 Regular Session. After next week, the Alabama Legislature will take a two-week spring break.*