

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT 2021 REGULAR SESSION · WEEK THIRTEEN MAY 7, 2021

MEDICAL MARIJUANA WINS FINAL PASSAGE BUT GAMBLING BILLS STALL IN WEEK OF LONG DAYS, LATE NIGHTS

With time running out on the 2021 regular session, all eyes were on the House of Representatives this week. After a day and a half of floor debate and multiple amendments, a bipartisan House voted 68-34 to pass SB46 by Sen. Tim Melson (R—Florence) authorizing **medical marijuana** in the state. The Senate concurred with House changes, sending the bill to the governor's desk. In its final form, the bill includes depression on the list of qualifying medical conditions and incorporates a requirement for local government to authorize operations of dispensaries.

Despite lengthy negotiations in the House, consensus could not be reached on a comprehensive **lottery and casino proposal**. It was scheduled for consideration on the House floor early Thursday but was pushed aside. A later attempt to bring up a more limited lottery-only proposal ended in failure and recriminations from both sides of the isle over who was at fault. Competing gaming interests and alternative proposals for spending the revenues weighed the proposals down.

The session's next-to-last week also saw the Reapportionment Committee meet to begin the **redistricting** process and Gov. Kay Ivey sign the \$7.67 billion **Education Trust Fund budget**. Totaling nearly a half billion dollars larger than the current year, the education budget provides a 2% raise for education employees from K-12 to two-year colleges and invests in a new incentive pay program to bolster math and science in K-12. It is Act 2021-342.

Legislators have a one-week recess before they reconvene in Montgomery for the session's final day on Monday, May 17. Of the remaining issues, final passage of the **General Fund budget** is most pressing. Last week the budget went to conference committee to resolve differences between the House and Senate versions, and the committee's \$2.484 billion recommendation has been ready for final passage since Tuesday afternoon.

OTHER ISSUES TO WATCH

ELECTION REFORM

- The governor has signed HB538 by Rep. Alan Baker (R—Brewton) to revise the timeline for requesting ballots and other **rules related to absentee ballots**. It is Act 2021-364.
- Both the House and Senate concurred this week with the conference committee report on HB167 by Rep. Chris Blackshear (R—Phenix City) to **prohibit an individual from voting multiple times or locations** in a single election. The bill is pending with the governor.
- The secretary of state would be authorized to conduct a **one-time, post-election audit of the vote count** under HB116 by Rep. David Standridge (R—Hayden). The bill is pending with the governor.
- **Precinct election officials** could serve in any precinct in the county where they are registered to vote under HB312 by Rep. David Wheeler (R—Vestavia Hills), which was signed into law this week as Act 2021-377.
- This week, the Senate indefinitely postponed SB235 by Sen. Dan Roberts (R—Birmingham) to **ban curbside voting**.
- SB238 by Sen. Jim McClendon (R—Springville) to allow some people with **visual impairments to vote absentee** was considered on the House floor Thursday, amended twice (1, 2) and carried over.

HEALTHCARE

- Alabama's existing **vaccine registry procedures** would be updated pursuant to HB184 by Rep. Paul Lee (R—Dothan). On Tuesday, it received a favorable report with two amendments (1, 2) from the Senate Healthcare Committee. It is in position for final passage.
- There was a general slowdown in action on the House floor Thursday to avoid two particularly controversial bills: SB267 by Sen. Arthur Orr (R—Decatur) to ban **vaccine passports** and SB10 as amended (1, 2, 3) by Sen. Shay Shelnett (R—Trussville) to **criminalize transgender transition treatment for minors**. Neither bill was brought up for consideration.
- SB97 by Sen. Tom Whatley (R—Auburn) would limit the **governor's authority during a public health emergency** and expand the Legislature's. The bill as substituted by the House Health Committee was scheduled for consideration on the House floor Thursday but legislators adjourned before reaching it. Governor Ivey is opposed and would be able to pocket veto the bill if it is passed on the final day of the session.
- Legislation to regulate the **pharmacy benefit management (PBM)** industry – SB227 by Sen. Tom Butler (R—Madison) – was signed into law by the governor Thursday. Act 2021-341 places PBMs under greater regulatory scrutiny, requires greater transparency and guarantees independent pharmacies access to the market while imposing some restrictions on PBMs. Self-funded plans have certain exemptions.

- SB289 by Sen. Greg Albritton (R—Atmore) to codify **civil liability protection for private mental health facilities** that step into the shoes of the state in providing care is pending with the governor.
- Both chambers agreed to a conference committee version of HB521 by Rep. Debbie Wood (R—Valley) to require **healthcare facilities to allow one caregiver or visitor per patient** during the COVID-19 pandemic. There had been concerns that Senate amendments exposed facilities to liability and jeopardized care and funding. The bill is pending with the governor after resolving those concerns.
- The **Alabama Board of Nursing** would gain access to the state’s **controlled substances database** for investigations or disciplinary activities under SB186 by Sen. Billy Beasley (D—Clayton), which was signed Thursday, becoming Act 2021-383.
- The Senate indefinitely postponed a number of bills this week that were procedurally impossible to pass in the time remaining, including SB174 by Sen. Tom Whatley (R—Auburn) to **expand optometrists’ scope of practice** and SB240 by Sen. Jim McClendon (R—Springville) to abolish the **State Board of Health, State Health Officer and State Committee of Public Health** and reconstitute the Alabama Department of Public Health and its duties.

ALCOHOLIC BEVERAGE MARKETPLACE

- **Small farm wineries** could sell directly to consumers and sell and deliver to licensed retailers with passage of SB294 by Sen. Andrew Jones (R—Centre). The bill received Senate concurrence this week and is pending with the governor.
- HB437 by Rep. Terri Collins (R—Decatur) to authorize **direct shipment of wine to consumers** is pending with the governor.
- The **Alcoholic Beverage Control Board** would have phased out retail sales under SB287 by Sen. Arthur Orr (R—Decatur), which was indefinitely postponed in the Senate this week.

TRANSPORTATION

- HB460 by Rep. Wes Allen (R—Troy) to **loosen regulations on heavy trucks** used for agriculture or forestry was signed Tuesday, becoming Act 2021-337.
- Contractors on **public road and bridge projects** could gain exemption from sales and use tax under HB340 by Rep. David Faulkner (R—Birmingham), which the governor signed Thursday. It is now Act 2021-372.
- The definition of **construction zone violations** would be expanded and a \$250 minimum fine set under SB4 by Sen. Gerald Allen (R—Tuscaloosa), and it is pending with the governor.
- SB332 by Sen. Kirk Hatcher (D—Montgomery) to update state safety regulations related to entry-level training for **commercial driver licenses** and bring them into compliance with federal law was signed Thursday, making it Act 2021-386.
- Roadbuilders would have been **shielded from certain civil liability** with SB248 by Sen. Clay Scofield (R—Guntersville), which was indefinitely postponed in the Senate this week.

PROCUREMENT

- Legislators have criticized Gov. Kay Ivey’s multi-billion-dollar plan to lease new state prisons, and Rep. Mike Jones (R—Andalusia) is sponsoring HB392 to give lawmakers authority to **review and delay large, multi-year contracts by General Fund agencies**. This week, the bill passed the Senate as substituted and amended. The House concurred, and the bill is pending with the governor.

BANKING AND INSURANCE

- Adjustments to **small company alternative valuation** by the Department of Insurance would be accomplished with passage of SB136 by Sen. Shay Shelnett (R—Trussville), which is pending with the governor.
- Signed Thursday, Act 2021-384 provides a process for a **trustee seeking to be released from duties to a trust**. SB282 is by Sen. Shay Shelnett (R—Trussville).

RETIREMENT SYSTEMS OF ALABAMA

- The **State Employees’ Retirement System Board of Control** would be expanded with an additional local government representative and an additional at-large representative to better reflect the participating membership under SB79 by Sen. Garlan Gudger (R—Cullman). It was signed Thursday, becoming Act 2021-390.
- On Tuesday, the Senate indefinitely postponed SB229 by Sen. Del Marsh (R—Anniston) to pay a **one-time bonus for retired state employees**.

ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- Both the House and Senate agreed to the conference committee report on SB215 by Sen. Del Marsh (R—Anniston) to **expand broadband access** under the umbrella of the Alabama Department of Economic and Community Affairs. The bill is pending with the governor.
- A pair of related bills for the **Alabama Innovation Corporation** are now pending with the governor after passing the Senate and receiving House concurrence this week. HB540 by Rep. Bill Poole (R—Tuscaloosa) creates the corporation for the purpose of promoting entrepreneurship and innovation, and HB609 by Rep. Jeremy Gray (D—Opelika) allows the corporation to make **matching grants of up to \$250,000** to entities that have received a federal Small Business Innovation Research grant or a federal Small Business Technology Transfer Research grant.
- The proposed **Alabama Rural, Agribusiness and Opportunity Zone Jobs Act** – HB473 by Rep. Danny Garrett (R—Trussville) – passed the Senate this week as amended (1, 2) and now needs House concurrence. The bill would establish a \$50 million pool of capital that must be invested in small businesses in rural and economically impoverished (opportunity zones and low-income census tracts) communities. It would also set targets for investing in minority-owned businesses. Federal SSBCI grants from the American Rescue Plan would be used to match private sector investments on a 1:1 ratio to raise capital for the fund, which would in turn be invested by fund managers into small businesses with growth potential.

Access to capital has been found to be one of the primary barriers faced by entrepreneurs in rural and impoverished areas and for minority businesses.

- A bill to **prohibit certain animal byproduct processing facilities in Etowah County** was indefinitely postponed in the Senate this week. SB246 is by Sen. Andrew Jones (R—Centre).

EMPLOYMENT LAW

- The Alabama Department of Labor would be required to adopt policies to recover **improper overpayments of unemployment benefits** under SB373 by Sen. Arthur Orr (R—Decatur), which is pending with the governor.
- The Senate indefinitely postponed SB265 by Sen. Rodger Smitherman (D—Birmingham) to **prohibit discrimination based on hairstyle** and create a cause of action against an employer who does so.

ENERGY

- On Tuesday, the governor signed HB446 by Rep. David Faulkner (R—Birmingham) to prevent governmental entities from blocking use of certain **energy sources**, making it Act 2021-336.

JUDICIAL COMPENSATION

- This week, the Senate concurred on SB292 by Sen. Greg Albritton (R—Atmore) to establish a **uniform pay plan for judges** and eliminate local salary supplements and expense allowances. The House had rejected an attempt to apply the pay plan to district attorneys, and now the bill is pending with the governor.

EDUCATION

- Management of some **public education institution construction** would shift away from the Department of Finance’s Division of Construction Management under HB220 by Rep. Nathaniel Ledbetter (R—Rainsville), which is pending with the governor.
- Rep. Kerry Rich (R—Guntersville) is sponsoring HB248 to provide for the **broadcast of public K-12 sporting events**, and the bill – which passed the Senate this week – is pending with the governor. A House amendment alleviates concerns brought by local school systems that the original bill would have created safety concerns and would have restricted schools’ ability to monetize the broadcasts of events by opening broadcast to any willing broadcaster. The revised bill gives local schools discretion to designate who may broadcast events, consistent with current law.
- The Senate voted to indefinitely postpone a **school choice** measure this week. SB365 by Sen. Del Marsh (R—Anniston) would require K-12 school districts to enroll nonresident students, subject to some limits and exceptions.
- The **Seizure Safe Schools Act** by Rep. Thomas Jackson (D—Thomasville) would allow a nurse or trained school employee to administer seizure medication. This week, HB76 passed the Senate with two floor amendments (1, 2). It is pending House concurrence.

GENERAL BUSINESS LAW

- HB494 by Rep. Chris England (D—Tuscaloosa) would provide for the creation and enforcement of **non-disparagement clauses** in contracts. It received a favorable report as substituted on Thursday from the Senate Judiciary Committee.

STATE AGENCIES

- The Senate confirmed Governor Ivey’s appointment of former Protective Life Executive Vice President Debbie Long to the **Alabama Ethics Commission**.

NICOTINE PRODUCTS

- HB273 by Rep. Barbara Drummond (D—Mobile) to raise to 21 the legal age to **purchase tobacco and nicotine products, restrict marketing practices and require registration of alternative nicotine products – including vaping products** – passed the Senate Tuesday with an amendment requiring alternative nicotine devices to have FDA approval. The House concurred with the change on Thursday, and the bill is pending with the governor.

GOVERNMENT TRANSPARENCY

- The Senate voted Tuesday to indefinitely postpone a controversial rewrite of **Alabama’s open records law**, SB165 by Sen. Arthur Orr (R—Decatur).

*The Alabama Legislature will reconvene on Monday, May 17,
for the final day of the regular session.*