

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT

2021 REGULAR SESSION · WEEK EIGHT

APRIL 2, 2021

OPEN RECORDS REFORM ADVANCES, MEDICAL MARIJUANA DELAYED ANOTHER WEEK

Following a spring break recess, the House of Representatives resumed brisk productivity this week, but action on the Senate floor slowed, with filibustering and frequent need to cut off debate and force votes.

Much of the week's significant activity took place in committees, where a controversial rewrite of Alabama's **open records law** advanced. The legislation originated with the Alabama Press Association, which had agreed to resolve differences after the session's end with the goal of bringing a compromise bill in 2022. However, Sen. Arthur Orr (R—Decatur), in his first year sponsoring the measure, indicated a desire to push forward. On Wednesday, the Senate Judiciary Committee conducted a public hearing on SB165, added an amendment and then gave the bill a favorable report. The Press Association has produced a new working draft.

Meanwhile, the House Judiciary Committee delayed a vote on **medical marijuana** this week to allow time for members to prepare amendments. SB46 by Sen. Tim Melson (R—Florence) is expected to appear on the committee's agenda next week. The committee, which had already conducted a public hearing prior to the recess, is the first of two House panels expected to vet the bill; the House Health Committee is also reviewing the issue. The House Judiciary Chairman, Rep. Jim Hill (R—St. Clair) has indicated that he supports the measure and that the bill will be voted on by the committee next Wednesday.

OTHER ISSUES TO WATCH

ELECTION REFORMS

- In a move to combat **election fraud**, the Senate Committee on Fiscal Responsibility and Economic Development gave a favorable report as amended to a bill prohibiting an individual from voting multiple times in a single election. HB167 is by Rep. Chris Blackshear (R—Phenix City).
- After Alabamians cast record numbers of **absentee ballots** in 2020, the House passed legislation Tuesday to revise the timeline for requesting and other rules related to absentee ballots. HB538 is by Rep. Alan Baker (R—Brewton).
- In Alabama, there is a separate schedule for **nonpartisan municipal elections**, and laws vary depending on city population. SB119 by Sen. Jabo Waggoner (R—

Vestavia Hills) passed the House on Tuesday, and it revises election law for cities with populations of 25,000 to 49,999. The measure is pending with the governor.

- The process for **updating voter registration lists** would be revised under HB314 by Rep. Rod Scott (D—Fairfield), which passed the House Thursday.
- Scheduling of **runoff elections** would be standardized at four weeks after the regular election in municipal and special primary elections pursuant to SB31 by Sen. Dan Roberts (R—Birmingham). It passed the House Thursday and is pending with the governor.
- **Campaign finance filings** would all be electronic and would be consolidated in the secretary of state's office under HB154 by Rep. Andy Whitt (R—Harvest), which passed the House this week.
- A **curbside voting ban** has passed the House and is pending in the Senate Governmental Affairs Committee. HB285 is by Rep. Wes Allen (R—Troy).

HEALTHCARE & PUBLIC HEALTH

- Legislation to **restrict pharmacy benefit managers (PBMs)** from using certain policies and procedures to hold down the cost of prescription drugs under employee benefit plans has been the subject of negotiations over the last few weeks to see if an agreement can be reached between independent pharmacists and PBMs on a compromise bill. The insurance industry, PBMs and employers are under pressure from legislative leadership, particularly in the Senate, to agree to some limits on PBMs. Independent pharmacists object to many of the practices of PBMs that place burdens on pharmacies and steer business through preferred networks and incentives, among other practices. While a number of the most restrictive provisions appear to have been negotiated out of the bill, concerns remain from PBMs and payors over remaining restrictions. The bill in its current draft form would increase the cost of care with no tangible improvement in healthcare. SB344, by Sen. Tom Butler (R—Madison), is pending in the Senate Banking and Insurance Committee. A companion bill, HB492, by Rep. Nathaniel Ledbetter (R—Rainsville) is pending in the House Ways and Means Education Committee.
- After multiple attempts, the Senate passed SB97 as substituted to limit the **governor's authority during a public health emergency** and expand the Legislature's role. It is sponsored by Sen. Tom Whatley (R—Auburn).
- A **community paramedicine** program to allow paramedics to provide expanded services would be authorized under HB141 by Rep. Chris Sells (R—Greenville). It received a favorable report from the Senate Healthcare Committee this week.
- **Healthcare facilities would be required to allow one caregiver or visitor** per patient with passage of HB521 by Rep. Debbie Wood (R—Valley). The bill received a favorable report this week from the House Health Committee and an amendment limiting its application to the COVID-19 pandemic.
- 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 approved by the House Health Committee.

- The House passed an agreed-upon floor substitute for HB224 by Rep. Nathaniel Ledbetter (R—Rainsville) relating to **portable “do not resuscitate” orders**.
- On Thursday, Sen. Bobby Singleton (D—Greensboro) filed SB369 affecting **hospitals operated by health care authorities**. It would give doctors with hospital privileges the right to approve contracts for group physician services and decisions to close existing hospital departments.
- The District of Columbia and 38 states have already **expanded Medicaid**, and chatter is increasing about Alabama joining them. The federal American Rescue Plan included incentives to encourage expansion, and the Retirement Systems of Alabama has urged action to provide healthcare to 300,000 low-income adults who otherwise cannot afford it. Though expansion would provide much-needed support for struggling rural hospitals, legislative leaders have been noncommittal due to concerns over long-term state funding implications.

ALCOHOLIC BEVERAGE MARKETPLACE

- **Home delivery of beer, wine and spirits** would be legalized pursuant to SB126 by Sen. Jabo Waggoner (R—Vestavia Hills), and the bill passed the House Thursday. The House-passed version incorporates a floor amendment, so the Senate will have to concur with the change.
- On Thursday, the House also passed HB437 by Rep. Terri Collins (R—Decatur) to authorize **direct shipment of wine to consumers**.

TRANSPORTATION

- HB460 by Rep. Wes Allen (R—Troy) to **loosen regulations on heavy trucks** used for agriculture or forestry was approved by Senate Agriculture, Conservation and Forestry Committee this week, as amended to clarify the effective date.
- A streamlined sales and use **tax exemption for airport authorities** would be created by SB11 by Sen. Sam Givhan (R—Huntsville). The bill received a favorable report as amended this week from the House Ways and Means Committee on Education.
- 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 passed the Senate Thursday.
- The definition of **construction zone violations** would be expanded and a \$250 minimum fine set under HB245 by Rep. Lynn Greer (R—Rogersville). It received a favorable report Wednesday from the Senate Transportation and Energy Committee.
- The proposed prohibition of certain **indemnity clauses in public works contracts** and subcontracts for roads and bridges is so noncontroversial that the House Rules Committee added it to an upcoming consent calendar, in which a list of bills is considered en masse without floor debate. SB220 as substituted and amended is by Sen. Clay Scofield (R—Guntersville).

BANKING AND INSURANCE

- Questions have surfaced about HB261 by Rep. Kerry Rich (R—Guntersville) relating to **group insurance offerings for state and local government employees**. The

bill (with a pending committee amendment) was scheduled for consideration on the House floor Thursday, but the sponsor moved to carry it over. Sen. Shay Shelnett (R—Trussville) is sponsoring the companion.

EDUCATION

- Members of the **State Textbook Committee** would be selected from the eight State Board of Education districts rather than Congressional districts under SB217 by Sen. Tim Melson (R—Florence). The bill received a favorable report as amended from the House Education Policy Committee this week.
- 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 received a favorable report from the Senate Healthcare Committee.
- The House tabled a committee amendment and added a floor amendment before passing HB248 on Thursday. The bill by Rep. Kerry Rich (R—Guntersville) provides for the **broadcast of public, K-12 school sporting events**.
- **Transgender athletes** would be prohibited from competing in public school sports unless the event specifically includes both genders under HB391 by Rep. Scott Stadthagen (R—Hartselle). This week, the bill received a favorable report as amended from the Senate Education Policy Committee.
- The House approved HB472 by Rep. Steve McMillan (R—Bay Minette) would change the term limits for trustees of the **Alabama Community College System**, so that appointed board members may not serve more than two consecutive full terms. The bill was referred to the Senate Government Affairs Committee.
- The Senate voted to form a **Joint Legislative Interim Study Commission on Community College Tenure Policies** on Thursday. SJR79 by Sen Dan Roberts (R—Birmingham) now goes to the House for consideration.

ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- HB219 by Rep. Kyle South (R—Fayette) to renew the expiring **Coal Severance Tax** was signed into law by the governor on Thursday. The severance tax is distributed to numerous entities but supports debts of the State Port Authority.
- The director of the **Alabama State Port Authority** could appoint two more **executive-level employees** under SB169 by Sen. Vivian Figures (D—Mobile), which also shields some sensitive information from public disclosure. The House passed the bill Thursday, and it is currently pending with the governor.

NICOTINE PRODUCTS

- The House passed HB273 by Rep. Barbara Drummond (D—Mobile) on Tuesday to raise to 21 the legal age to **purchase tobacco and nicotine products – including vaping products**. The House-passed version incorporates a floor amendment.

PROCUREMENT

- SB15 by Sen. Andrew Jones (R—Centre) exempts from competitive bid laws certain **leases and lease/purchases of goods and services** by local boards of education or other state and local governmental entities made through cooperative

purchasing agreements. It received a favorable report from the House State Government Committee this week.

STATE AGENCIES

- Sen. Arthur Orr (R—Decatur) introduced legislation this week to **extend the payment due date for state income taxes and financial institutions excise taxes** to match due dates for corresponding federal payments, which the IRS recently extended for this year. SB352 received a favorable report Wednesday from the Senate Finance and Taxation Committee on the General Fund.

LABOR LAW

- More people would be eligible for **criminal record expungement** with SB117 by Sen. Linda Coleman-Madison (D—Birmingham). The bill received a favorable report and amendments (1, 2, 3 and 4) this week from the House Judiciary Committee.
- The **permitting process for concealed carry of a handgun** would be standardized statewide with SB308 by Sen. Randy Price (R—Opelika). The Senate passed a floor substitute Thursday with bipartisan support.
- SB375 introduced Thursday by Sen. Rodger Smitherman (D—Birmingham) would create an expanded **state cause of action for discrimination**.

REMOTE NOTARIZATION

- **Remote notarizations** would be permissible in some situations under SB275 by Sen. Sam Givhan (R—Huntsville). The bill, which this week received a favorable report as amended from the House State Government Committee, would also retroactively ratify remote notarizations done under emergency conditions and set a penalty for violations.

ENERGY

- The House passed a bill to prevent governmental entities from blocking use of certain energy sources under HB446 by Rep. David Faulkner (R—Birmingham).

2022 ELECTION CYCLE

- With **Richard Shelby's announced retirement** after 36 years in the U.S. Senate, the race to succeed him is heating up on the Republican side. Montgomery businesswoman Lynda Blanchard, Trump's ambassador to Slovenia, is a first-time candidate who is off to an aggressive start with television ads airing during March Madness. Six-term U.S. Rep. Mo Brooks of Huntsville announced his candidacy last week. He last campaigned statewide in 2017, when he finished third in the GOP primary in a special election for U.S. Senate. We continue to hear that current Secretary of State John Merrill and Business Council of Alabama President and CEO Katie Boyd Britt are considering running.
- Brooks' Senate bid opens up his Congressional seat from north Alabama. Madison County Commission Chairman Dale Strong announced his campaign this week.

The Alabama Legislature will reconvene on Tuesday, April 6, and lawmakers have set a busy schedule, as they are expected to go into formal session three days next week.