

# FINE GEDDIE

GOVERNMENT RELATIONS

## THE FINE GEDDIE REPORT 2021 REGULAR SESSION · WEEK TWO FEBRUARY 12, 2021

### *FAST-PACED PRODUCTIVITY AGAIN IN WEEK TWO*

Governor Kay Ivey signed three major legislative measures into law this week. The bills below were identified as the key legislative priorities for the session and the swift approval of each reflects the highly productive posture in which the Alabama Legislature has operated the past two weeks.

- **Economic Development Incentives** – The Senate passed HB192 by Rep. Bill Poole (R—Tuscaloosa) to renew two major industrial recruitment tools and expand another incentive to auto manufacturers that ship through the Alabama State Port Authority. The expired **Alabama Jobs Act** had provided tax credits and rebates to new industries, and the expired **Growing Alabama Act** had provided tax credits for donations to economic development organizations.
- **COVID-19 Liability Protection** – The House passed SB30 by Sen. Arthur Orr (R—Decatur) to give broad civil immunity to businesses, healthcare providers, government entities and others against claims of coronavirus exposure, with extra protection for healthcare providers.
- **Tax Relief & Reform** – The Senate passed HB170 by Rep. Danny Garrett (R—Trussville) to exempt federal **Coronavirus Relief Fund** payments and small business loans under the **Paycheck Protection Program** from state income tax. The bill also addresses multiple business-friendly tax recommendations from a legislative task force.

The other top news of the week came from Sen. Del Marsh (R—Anniston), whose **comprehensive gambling proposal** received a favorable report from the Senate Tourism Committee and limited debate in the Senate. SB214 proposes a constitutional amendment, which, if ratified by voters, would establish a lottery, allow casino-style games and electronic bingo at certain locations and allow sports wagering online and at certain locations. The proposal includes negotiation of a compact with the Poarch Creek Indians, the state's gaming proceeds benefitting new and existing public services, ranging from college scholarships to agricultural grants to healthcare and broadband expansion.

### *THE COST OF PRESCRIPTION DRUGS*

The cost of prescription drugs is the fastest growing segment of healthcare expenses, accounting for nearly 25 percent of all healthcare costs today. Employers struggle to provide healthcare benefits for their employees and keep costs manageable. The primary

way that businesses control the cost of their pharmaceutical expense is by hiring a Pharmaceutical Benefit Manager (PBM) to administer the prescription drug portion of their health care benefit. PBMs work through insurers or even directly with large employers to perform numerous services that ensure high-quality, cost efficient delivery of prescription drugs. PBMS use many methods to control costs such as plan design, pharmacy networks, mail order pharmacy, clinical management, formulary management, pricing models, and negotiations with manufacturers and pharmacies by aggregating buying power of employers.

PBMs have come under attack from the pharmaceutical supply chain, but in particular, by independent pharmacies who express discontent over their profit margins. Legislation promoting the interests of pharmacists has been enacted in numerous states and pharmacists have successfully litigated to defend cost regulation at the U.S. Supreme Court. These statutes typically take aim at these tools PBMs use to control costs. Alabama is no different.

Sen. Tom Butler (R-Madison) has introduced an onerous PBM regulatory bill, SB 227. This legislation would prohibit many significant tools used by employers and their PBMs to control pharmaceutical costs. It would prohibit networks, put limits on specialty pharmacies, restrict formularies, prohibit mail-order pharmacy, and ban pricing models, among other regulatory barriers.

*Please let us know if you have an interest in this legislation and if your organization would be willing to share your PBM experience and how the PBM saves your organization money. It is important to put a corporate or even a human face on this issue.* The old way of pitting insurers vs. pharmacists is only resulting in more regulation. Legislators need to hear from the people who pay for their employees' healthcare.

## OTHER ISSUES TO WATCH

### HEALTHCARE & PUBLIC HEALTH

- **Nurses in residential community health settings** would be authorized to **delegate certain tasks to unlicensed healthcare workers** in accordance with rules from the Alabama Board of Nursing under [SB183](#) by Sen. Vivian Figures (D—Mobile). The bill received a favorable report from the Senate Healthcare Committee on Wednesday and then passed the Senate on Thursday.
- The House Judiciary Committee conducted a lengthy public hearing on a proposal to criminalize **transgender treatment for minors**. The committee is expected to vote on [HB1](#) by Rep. Wes Allen (R—Troy) when lawmakers return. An identical bill – [SB10](#) from Sen. Shay Shelnett (R—Trussville) – received a favorable report from the Senate Healthcare Committee this week.
- Alabama's existing **vaccine registry procedures** would be updated pursuant to [HB184](#) by Rep. Paul Lee (R—Dothan). The bill received an **amendment** and a favorable report from the House Health Committee.

- The Certificate of Need Board and process would be abolished under HB363 by Rep. Andrew Sorrell (R—Muscle Shoals).

#### ALCOHOLIC BEVERAGE MARKETPLACE

- **Home delivery of beer, wine and spirits** would be legalized under SB126 by Sen. Jabo Waggoner (R—Vestavia Hills), and the bill passed the Senate Thursday with two amendments. The revisions changed mandatory background checks for delivery drivers to every 24 months, incorporated language requested by the Alabama Alcoholic Beverage Control Board related to federally mandated background checks on its licensees, cut license and renewal fees and boosted the per customer per day delivery limits. The companion bill – HB229 by Rep. Gil Isbell (R—Gadsden) – received similar amendments (amendment 1, amendment 2) and a favorable report from the House Judiciary Committee.

#### PROCUREMENT

- SB77 by Sen. Arthur Orr (R—Decatur) to substantially reform **state procurement** passed the Senate this week.
- HB162 by Rep. Kyle South (R—Fayette) provides a **lease tax exemption** on the gross proceeds of many motor vehicle lease transactions with government agencies. The bill also removes the current prohibition against passing lease tax of tangible personal property on to state or local governments. The bill is scheduled for consideration on the House floor when lawmakers return.
- On February 23, the House is also scheduled to take up HB187 by Rep. Terri Collins (R—Decatur). It exempts from competitive bid laws certain **leases and lease/purchases of goods and services** by city and county boards of education or other state and local governmental entities made through national or regional cooperative purchasing agreements. It received a favorable report from the House State Government Committee with one amendment. The companion bill – SB15 by Sen. Andrew Jones (R—Centre) – passed the Senate Thursday.

#### TRANSPORTATION

- The definition of **construction zone violations** would be expanded and a minimum \$250 fine set by SB4 by Sen. Gerald Allen (R—Tuscaloosa), and the bill received a favorable report from the Senate Transportation and Energy Committee on Thursday.
- A **repeal of the Automated Commercial Motor Vehicles and Teleoperations Act** pursuant to SB154 from Sen. Gerald Allen (R—Tuscaloosa) also received a favorable report from the Senate Transportation and Energy Committee on Thursday. The act currently allows operation of automated commercial motor vehicles without the presence of a conventional driver.

#### INSURANCE

- As amended by the House, HB32 by Rep. Kerry Rich (R—Guntersville) would make Alabama's law regulating reinsurers and the credit an insurer may apply against its otherwise required reserves substantially similar to the current version of the **Credit for Reinsurance Model Law** developed by the National Association of Insurance

Commissioners. It passed the House this week. The companion – SB24 by Sen. Shay Shelnett (R—Trussville) – received a favorable report this week from the Senate Banking and Insurance Committee before passing the Senate.

- Identical revisions of **small company alternative valuation** by the Alabama Department of Insurance advanced in both bodies this week. The House Insurance Committee gave a favorable report to HB258 by Rep. Kerry Rich (R—Guntersville), and the Senate Banking and Insurance Committee did the same for SB136 by Sen. Shay Shelnett (R—Trussville).

## EDUCATION

- Transgender athletes would be prohibited from competing in public school sports unless the event specifically includes both genders under HB391 introduced by Rep. Scott Stadthagen (R—Hartselle).
- Management of **public school construction** from K-12 to higher education would shift from the Department of Finance’s Division of Construction Management to either the State Department of Education or the institution’s governing board under HB220 by Rep. Nathaniel Ledbetter (R—Rainsville). It received a favorable report this week from the House Education Policy Committee.

## SUPPLEMENTAL APPROPRIATIONS

- A **\$260 million supplemental appropriation** is now pending with the governor. HB231 by Rep. Steve Clouse (R—Ozark) appropriates federal funds for the Alabama Housing Finance Authority to administer the **Emergency Rental Assistance Program**. The bill received a favorable report from the Senate Finance and Taxation Committee on the General Fund before passing the Senate on Thursday.

## CONNECTIVITY

- The House approved SB76 by Sen. Arthur Orr (R—Decatur) to set a statewide standard for deploying 5G cellular infrastructure, including limits on fees to use existing utility structures. The bill is currently pending with Gov. Kay Ivey.
- SB215 by Sen. Del Marsh (R—Anniston) would establish the Alabama Digital Expansion Authority as a new state agency to oversee the expansion and availability of high-speed broadband services throughout the state. The bill received a favorable report and two amendments (amendment 1, amendment 2) from the Senate Tourism Committee and limited debate on the Senate floor Thursday.

## ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- The director of the **Alabama State Port Authority** would gain authority to appoint two more **executive-level employees** under SB169 by Sen. Vivian Figures (D—Mobile). The bill also shields some sensitive information from public disclosure. It received a favorable report from the Senate Governmental Affairs Committee this week with changes requested by the Alabama Press Association before passing the Senate.
- The Alabama Senate received confirmation messages this week for four members of the **Alabama State Port Authority’s Board of Directors**: Tony Cochran, Alvin K. Hope, Patricia Sims and Carl Jamison.
- HB219 by Rep. Kyle South (R—Fayette) to extend the \$0.135/ton **coal severance tax**

and adjust the distribution formula passed the House on Tuesday.

#### LOCAL LEGISLATION OF GENERAL INTEREST

- In Shelby County only, **privately owned sewer systems** using public rights-of-way would be subject to **regulation by the Public Service Commission** under **SB74** by Sen. Jabo Waggoner (R—Vestavia Hills). The bill proposes a constitutional amendment, so if it passes the Legislature it would then go to a public referendum. The bill was scheduled for consideration Thursday by the Senate Shelby County Legislation Committee but the committee meeting was cancelled. The legislation would likely result in higher sewer rates for residents.

*The House and Senate will reconvene on Tuesday, February 23, after a one-week recess.*