

# FINE GEDDIE

GOVERNMENT RELATIONS

## THE FINE GEDDIE REPORT

2021 REGULAR SESSION · WEEK FOURTEEN

MAY 18, 2021

### *MEDICAL MARIJUANA RECEIVES GOVERNOR'S SIGNATURE, RURAL ECONOMIC DEVELOPMENT BILL WINS FINAL PASSAGE AND BUDGETS FINALIZED ON SESSION'S LAST DAY*

On the final day of the 2021 regular session, the biggest news came in the early afternoon when Gov. Kay Ivey announced that she had signed medical marijuana legislation into law. After thorough and extended consideration in the legislature, SB46 by Sen. Tim Melson (R—Florence) had been pending with the governor since May 6. In the ensuing days, speculation had focused on the possibility that she would allow it to become law without her signature. Running to more than a hundred pages, Act 2021-450 is extremely comprehensive – specifically addressing everything from recommendation limits (conditions, dosage, delivery method), to production and dispensary rules, to establishment of a governing commission and detailed employer protections.

Among protections for employers, key provisions include:

- Employees and/or their dependents are ineligible for workers' compensation benefits if the injury or death resulted from the employees' impairment by medical cannabis;
- Health insurance plans are not obligated to cover medical cannabis treatment;
- Employers are not required to allow employees to use medical cannabis and are allowed to consider medical cannabis use in hiring/firing/disciplinary decisions;
- Employers are not prohibited from establishing or enforcing a drug testing policy;
- The new state law does not supersede federal restrictions on employment and does not create a cause of action against employers due to an employee's use of medical cannabis;
- The drug-free workplace discount on workers' compensation premiums is preserved;
- Employers retain the right to deny payment of workers' compensation benefits due to a positive drug test.

In economic development news, the House started off Monday by concurring with Senate changes to the proposed **Alabama Rural, Agribusiness and Opportunity Zone Jobs Act**. HB473 by Rep. Danny Garrett (R—Trussville) is now pending with the governor. 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.

The Legislature is constitutionally required to write operating budgets for the state each year, and the **\$2.484 billion General Fund budget** for 2021-2022 received final passage Monday. Reflecting a \$90.6 million increase from the current fiscal year, it is now pending with the governor. Ivey had already signed the corresponding \$7.67 billion **Education Trust Fund budget**. The budgets would boost the state's investment in **electric vehicles** in two ways: a \$2 million grant program for electric vehicle infrastructure and planning housed at the Alabama Department of Economic and Community Affairs, as well as \$1 million for an electric vehicle technology education program.

The session was exceedingly productive in many areas, but serious concerns with the **state prison system** have lingered. Some stakeholder priority bills relating to prisons are still outstanding, which begs the question whether corrections issues will be addressed in a special session. Alabama had been under pressure from the Trump Justice Department to remedy unconstitutional conditions, and the transition to the Biden administration is well underway.

## OTHER ISSUES TO WATCH

Of the legislation that received final passage on Monday, anything that the governor chooses not to sign is dead by “pocket veto.”

### ELECTION REFORM

- On Monday, the governor signed **HB167** by Rep. Chris Blackshear (R—Phenix City) to **prohibit an individual from voting multiple times or locations** in a single election. It is Act 2021-448.
- The process for **updating voter registration lists** would be revised under **HB314** by Rep. Rod Scott (D—Fairfield), which passed the Senate Monday. It is now 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 governor signed the legislation last week, making it Act 2021-446.
- After extended debate on Monday, the Senate passed **HB285** by Rep. Wes Allen (R—Troy) to **ban curbside voting**. The bill is pending with the governor.

### HEALTHCARE

- **SB267** by Sen. Arthur Orr (R—Decatur) to ban **vaccine passports** was amended on the House floor Monday. The Senate concurred with the change, and the bill is pending with the governor.
- In the House, time ran out Monday night before **SB10** as amended (1, 2, 3) by Sen.

Shay Shelnett (R—Trussville) to **criminalize transgender transition treatment for minors** could be considered.

- 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 brought up on the House floor Monday only to fail on a procedural vote. Gov. Kay Ivey has opposed the measure, and a second attempt to bring the bill to a vote late Monday night was unsuccessful.
- 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 Act 2021-437 after the governor signed it last week during the recess.
- HB521 by Rep. Debbie Wood (R—Valley) to require **healthcare facilities to allow one caregiver or visitor per patient** during the COVID-19 pandemic has become law without the governor’s signature. Concerns that Senate amendments exposed facilities to liability and jeopardized care and funding had been resolved.
- HB137 by Rep. Chip Brown (R—Mobile) regarding **sexual assault victims** and their medical care passed the Senate Monday and is pending with the governor.
- SB143 by Sen. Bobby Singleton (D—Greensboro) would revise the authority of the State Board of Health to enforce the **Alabama Lead Reduction Act**. The bill and its pending committee amendment were scheduled for floor debate in the House on Monday but were not considered.
- HB224 by Rep. Nathaniel Ledbetter (R—Rainsville) relating to **portable “do not resuscitate” orders** passed the Senate Monday and is pending with the governor.

#### ALCOHOLIC BEVERAGE MARKETPLACE

- **Small farm wineries** could sell directly to consumers and sell and deliver to licensed retailers with SB294 by Sen. Andrew Jones (R—Centre), which the governor signed last week during a recess. It is Act 2021-440.
- HB437 by Rep. Terri Collins (R—Decatur) to authorize **direct shipment of wine to consumers** was signed during last week’s recess. It is Act 2021-419.

#### TRANSPORTATION

- The definition of **construction zone violations** would be expanded and a \$250 minimum fine set under SB4 by Sen. Gerald Allen (R—Tuscaloosa). After both chambers agreed to an executive amendment, the bill is once more pending with the governor.

#### 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**. The bill is pending with the governor.
- HB187 by Rep. Terri Collins (R—Decatur) 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 passed the Senate Monday and is currently pending with the governor.

## BANKING AND INSURANCE

- Adjustments to **small company alternative valuation** by the Department of Insurance were accomplished with passage of SB136 by Sen. Shay Shelnett (R—Trussville), which the governor signed during last week’s recess. It is Act 2021-397.

## ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- SB215 by Sen. Del Marsh (R—Anniston) to **expand broadband access** under the umbrella of the Alabama Department of Economic and Community Affairs received the governor’s signature Monday, making it Act 2021-465.
- A pair of related bills for the **Alabama Innovation Corporation** were signed into law Monday. HB540 by Rep. Bill Poole (R—Tuscaloosa), which creates the corporation for the purpose of promoting entrepreneurship and innovation, is Act 2021-455. HB609 by Rep. Jeremy Gray (D—Opelika), which 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, is Act 2021-449.

## 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 was signed during last week’s recess, becoming Act 2021-398.

## JUDICIAL COMPENSATION

- SB292 by Sen. Greg Albritton (R—Atmore) to establish a **uniform pay plan for judges** and eliminate local salary supplements and expense allowances was signed into law last week, becoming Act 2021-441. Previously, the House had rejected an attempt to apply the pay plan to district attorneys.

## 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). The governor returned the bill with an executive amendment Monday, and both chambers agreed with the amendment.
- Rep. Kerry Rich (R—Guntersville) is sponsoring HB248 to provide for the **broadcast of public K-12 sporting events**, and the governor signed the bill Monday, making it Act 2021-452. A House amendment alleviated 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 final bill gives local schools discretion to designate who may broadcast events, consistent with current law.
- 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, the House concurred with Senate changes to HB76, which is now pending with the governor.

#### GENERAL BUSINESS LAW

- HB494 by Rep. Chris England (D—Tuscaloosa) to provide for the creation and enforcement of **non-disparagement clauses** in contracts is pending with the governor. The Senate passed a floor substitute for the bill on Monday, and the House concurred.

#### 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** – was signed into law Monday as Act 2021-453. Alabama is the first state in the country to ban synthetic nicotine.

*The Alabama Legislature ended the 2021 regular session yesterday. Lawmakers, although not scheduled to convene again until January 2022, must return later this year for a special session on redistricting.*