

# FINE GEDDIE

GOVERNMENT RELATIONS

## THE FINE GEDDIE REPORT

2019 REGULAR SESSION · WEEK ELEVEN

MAY 24, 2019

### *SINE DIE IN SIGHT:*

#### *Broadband Expansion, Equal Pay, and Budgets Move Forward as Lottery Stalls*

Although there are six possible meeting days left in the 2019 Regular Session, all signs indicate an early departure: Legislators have stopped introducing legislation and next week's proposed floor calendars are focused on final consideration of certain bills. The House will take up the Education Trust Fund budget on Tuesday and the General Fund budget will go to conference committee next week. Once the Legislature has fulfilled its constitutional obligation to approve the budgets, they are expected to adjourn *sine die*. Other key items currently hanging in the balance – such as Senator Marsh and Gov. Ivey's constitutional amendment to restructure governance of public elementary and secondary education and bills to expand development of broadband infrastructure – are expected to be priorities next week.

This week was a fast-paced, three-day week with significant action. Two proposals to expand **broadband internet service** in Alabama made progress. The biggest news was the compromise reached on a bill allowing **electric utilities to use their easements to offer broadband service**. HB400 by Rep. Randall Shedd (R—Cullman) was revised on the Senate floor Wednesday before being approved by the upper chamber. On Thursday, the House concurred with the Senate's changes, and the bill is now pending Gov. Kay Ivey's signature. A related bill to retool the state's **broadband accessibility grants and incentivize development of higher speed internet** received a favorable report as substituted from the House Ways and Means Committee on Education. SB90 by Sen. Clay Scofield (R—Guntersville) is on the House's Special Order Calendar for Tuesday. However, there was no movement this week on separate legislation to allow **broadband infrastructure near railroad rights-of-way and crossings**. These are HB70 by Rep. David Standridge (R—Hayden), which is pending third reading in the House with two amendments (amendment 1 and amendment 2), and SB159 by Sen. Donnie Chesteen (R—Geneva), which is pending in the Senate Finance and Taxation Committee on Education. The high profile **Alabama Incentives Modernization Act**, HB540 by Rep. Bill Poole (R—Tuscaloosa), is pending in the Senate Finance and Taxation Committee on Education.

In Senate action, HB225 by Rep. Adline Clarke (D—Mobile) received a favorable report with one amendment from the Senate Fiscal Responsibility and Economic Development Committee. For businesses with 50 or more employees, the bill would create a state cause of action related to **wage discrimination based on race or gender**. Proponents of the bill, which is pending third reading in the Senate, have argued that Alabama is one of only two states (the other being Mississippi) without a similar law on the books. Should the bill advance to the Senate floor, additional amendments are expected to heighten the pleading requirement for such claims. Additionally, proponents are considering an amendment to prevent employers from requiring a

prospective employee to disclose their prior wage history.

The proposed statewide referendum to establish an **Alabama lottery** hit a roadblock this week, and the House sponsor said the legislation is dead for the session. SB220 by Rep. Greg Albritton (R—Atmore) would have allowed a paper-based lottery, and it fell short of the necessary supermajority on a procedural vote in the House. Opposition was bipartisan.

The \$2.136 billion **General Fund budget**, which originated in the House this year, received its third reading in the Senate on Tuesday. The House nonconcurred with the Senate's changes the same day, appointing Reps. Laura Hall (D—Huntsville), Kyle South (R—Fayette) and Steve Clouse (R—Ozark) as conferees. The Senate must make its appointments before the conference committee can begin work. The No. 1 priority when the House reconvenes next week is the **Education Trust Fund budget**, the larger of the state's two major operating budgets at \$7.1 billion next year. The House Ways and Means Committee on Education conducted a public hearing on the budget Tuesday before giving a favorable report to the committee's substitute on Wednesday. The budget is pending third reading in the House, and it is likely that a conference committee will be necessary to resolve differences between the two chambers.

### *TASK FORCES PROPOSED*

Sen. Cam Ward (R—Alabaster) filed SJR79 this week to create the Alabama Open Records Task Force to determine whether current state law should be revised. The panel, which includes at least eight seats open to the general public, would report back to the Legislature in February. The resolution has passed the Senate and is pending with the House Rules Committee. Earlier in the session, Sen. Ward's SB237 to rewrite the current statute drew substantial criticism because some provisions were seen as vague, and others opened loopholes or threatened to compromise sensitive information currently protected by caselaw.

Sen. Dan Roberts (R—Birmingham) has proposed a resolution to establish a task force to study federal tax reform's impact on state tax law. SJR87 would create the Joint Legislative Task Force on the Tax Cuts and Jobs Act.

Both resolutions are pending consideration by the House Rules Committee.

### *LIFETIME PISTOL PERMIT TREADS WATER*

There was no movement this week on establishing a statewide **lifetime concealed carry permit** administered by the Alabama Law Enforcement Agency. SB392 by Sen. Randy Price (R—Opelika) is pending third reading in its house of origin, and the companion – HB595 by Rep. Poncey Robertson (R—Mount Hope) – is pending in the House Public Safety and Homeland Security Committee.

### *MARKETPLACE REFORM FOR ALCOHOLIC BEVERAGES*

A task force to study the **direct shipment of wine** has been officially established with Gov. Ivey's signature on SJR64 by Sen. Jabo Waggoner (R—Vestavia Hills), now Act 2019-197. At the same time, **statutory authorization** for direct shipment progressed this week. HB350 by Rep. Terri Collins (R—Decatur), which received its third reading in the House as substituted and amended, is pending committee assignment in the Senate. Meanwhile, SB404 by Sen. Rodger Smitherman (D—Birmingham) would allow a small beer manufacturer to have a financial interest in a

brewpub. The bill, which received a favorable report as substituted by the House Economic Development and Tourism Committee, is on the House Special Order Calendar for Tuesday. In other action, revisions to laws governing **entertainment districts** advanced this week when SB276 by Sen. Smitherman (D—Birmingham) received a favorable report from the House Economic Development and Tourism Committee. The bill is now pending third reading in the House, but no action was taken on the companion, HB474 by Rep. Neil Rafferty (D—Birmingham), which is also pending third reading in the House. HB519 by Rep. Gil Isbell (R—Gadsden) would allow licensed retailers to deliver alcoholic beverages to consumers, and a substitute received a favorable report from the House Economic Development and Tourism Committee this week. The bill is pending third reading in the House.

### *HEALTHCARE UPDATE*

**Pharmacy benefit managers** would be required to register with the Alabama Department of Insurance pursuant to SB73 by Sen. Arthur Orr (R—Decatur), which received a favorable report from the House Insurance Committee this week. The bill is on the House Special Order Calendar for Tuesday. SB245 by Sen. Tom Butler (R—Madison) would permit pharmacists to substitute **interchangeable biological products**, and on Thursday, it received its third reading in the House with an amendment. The bill is pending concurrence in the Senate. In other healthcare action, HB381 would expand the list of medical providers who can make decisions about necessary care when **patients are unable to provide consent**. The bill, sponsored by Rep. Wes Allen (R—Troy), received its third reading in the Senate Thursday and is pending with Gov. Ivey. Meanwhile, a clarification to **hospital lien laws** (HB11) by Rep. Connie Rowe (R—Jasper) received a third reading in the Senate Tuesday and is pending with Gov. Ivey.

### *TRANSPORTATION UPDATE*

A bill to lower the age of eligibility for certain **commercial drivers' licenses** has been signed by Gov. Ivey. HB 479 by Rep. Dexter Grimsley (D—Newville) is now Act 2019-249. This week, HB404 by Rep. K.L. Brown (R—Jacksonville), intended to help reduce **distracted driving**, received its third reading as substituted in the House, and received a favorable report as amended from the Senate Judiciary Committee. It is currently pending third reading in the Senate. An update to the **one-call notification system** for underground utilities received its third reading in the House on Thursday. SB315 by Sen. Dan Roberts (R—Birmingham) is pending with Gov. Ivey.

The **Railroad Modernization Act** would establish a state income tax credit for qualified capital expenditures. The House version of the proposal, HB457 by Rep. Rod Scott (D—Fairfield), received a favorable report with an amendment from the Senate Finance and Taxation Committee on Education this week. It is pending third reading in the Senate. The companion, SB185 by Sen. Bobby Singleton (D—Greensboro), is pending with the Senate Finance and Taxation Committee on the General Fund.

SB254 by Sen. David Burkette (D—Montgomery) would require **safety belts** for everyone in a moving motor vehicle, not just those in the front seats. This week the bill received its third reading in the Senate and a favorable report with one amendment from the House Transportation and Energy Committee. It is pending third reading in the House.

SB47 by Sen. Gerald Allen (R—Tuscaloosa), which would authorize some **autonomous commercial vehicles**, received its third reading in the Senate and a favorable report from the House

Public Safety and Homeland Security Committee this week. The bill is first on the House Special Order Calendar for Tuesday (which calendar is expected to follow a calendar focused on the Education Trust Fund Budget).

### *EDUCATION UPDATE*

The most significant education reform proposal of the session would impose sweeping changes on governance of K-12 education. SB397 by Senate President Pro Tempore Del Marsh (R—Anniston) is a priority for Sen. Marsh and Governor Ivey. Subject to a statewide referendum, the proposed constitutional amendment would move Alabama away from an elected state school board. Members of the new Alabama Commission on Elementary and Secondary Education would be chosen by the governor and confirmed by the Senate. Appointed school boards are generally more closely associated with educational achievement than elected boards. Sen. Marsh's proposal, which received a favorable report Tuesday from the House Education Policy Committee, is pending third reading in the House.

Sen. Marsh is also sponsoring a bill to require the governor to **consult with minority caucuses** on these appointments, and this week SB398 received a favorable report with one amendment from the House Education Policy Committee. That bill is also pending third reading in the House.

In other action, a revised **Alabama Literacy Act** addressing reading proficiency in the early grades received a favorable report Tuesday from the Senate Education Policy Committee. HB388 by Rep. Collins (R—Decatur) is now pending third reading in the Senate. HB216 by Rep. David Faulkner (R—Birmingham), which would make **computer science** part of the mandatory school curriculum, is also pending third reading in the Senate.

### *OTHER ISSUES TO WATCH*

- The **Financial Institution Excise Tax Reform Act of 2019** received its third reading in the Senate Tuesday, and now HB419 by Rep. South (R—Fayette) is pending with Gov. Ivey.
- SB410 by Sen. Butler (R—Madison), related to redevelopment authorities adjacent to **military bases**, received its third reading in the Senate Thursday and is pending in the House Fiscal Responsibility Committee. The companion – HB508 by Rep. Thad McClammy (D—Montgomery) – is pending third reading in its house of origin.
- HB600 by Rep. Clouse (R—Ozark) would add the state's veterans affairs commissioner to the **Alabama Job Creation and Military Stability Commission**. This week, the bill received its third reading in the House and then garnered a favorable report from the Senate Veterans and Military Affairs Committee. It is now pending third reading in the Senate. The companion bill – SB365 by Sen. Tom Whatley (R—Auburn) – received its third reading in the Senate this week and is currently pending in the House Military and Veterans Affairs Committee.
- The **Alabama Innovation Act** relating to economic incentives for research received a favorable report from the House Ways and Means Committee on Education as substituted and amended. SB78 by Sen. Orr (R—Decatur) is pending third reading in the House.
- The state could recapture benefits extended to call centers that move their operations out of Alabama under SB110 by Sen. Ward (R—Alabaster). The bill received its third reading as substituted in the House this week and is pending concurrence in the Senate.

- A reduction in **unemployment compensation** became law this week with the signature of Gov. Ivey. SB193 by Sen. Orr (R—Decatur) is now Act 2019-204.
- SB153 by Sen. Tim Melson (R—Florence) would update amnesty and class action provisions of the **Simplified Sellers Use Tax** remittance program for online purchases. On Thursday, the bill received its third reading in the House with one floor amendment, and it is pending Senate concurrence with this change.
- Negotiations on the **Protect Alabama Small Businesses Act** to regulate interactions between **franchisors and franchisees** have produced a compromise that will apply only to non-alcoholic beverage companies. A substitute is expected next week. SB129 by Sen. Chris Elliott (R—Fairhope) is pending in the House Commerce and Small Business Committee, and the companion – HB352 by Rep. Rowe (R—Jasper) – is pending third reading in the House.
- The **Asbestos Trust Claims Transparency Act**, requiring plaintiffs to disclose all viable claims, has been signed by Gov. Ivey. SB45 by Sen. Roberts (R—Birmingham) is now Act 2019-261.
- As amended in the House, SB198 by Sen. Orr (R—Decatur) would establish a nominating process for the **director of the Administrative Office of Courts**. The proposed constitutional amendment is pending consideration in a conference committee. Conferees are Sens. Orr (R—Decatur), Sam Givhan (R—Huntsville), and Singleton (D—Greensboro), along with Reps. Jim Hill (R—Moody), Mike Jones (R—Andalusia) and Prince Chestnut (D—Selma).
- SB297 by Sen. Givhan (R—Huntsville) would increase the amount-in-controversy threshold for **circuit court jurisdiction** from \$10,000 to \$25,000, and it received a third reading Thursday in the Senate with a floor amendment. The Senate-passed version is pending with the House Judiciary Committee.
- **Minimum qualifications for circuit and district judges** would increase with HB529 by Rep. Faulkner (R—Birmingham). The Senate Judiciary Committee gave a favorable report to a substitute, which is pending third reading in the Senate.
- Regulation of **alternative nicotine products (vaping)** has been signed into law by Gov. Ivey this week. HB41 by Rep. Shane Stringer (R—Citronelle) is now Act 2019-233.
- HB226 by Rep. Jamie Kiel (R—Russellville), clarifying certain rules related to **certificates of title for manufactured homes**, was signed by Gov. Ivey this week. It is now Act 2019-239.
- **Daily fantasy sports contests** would be legalized under HB361 by Rep. South (R—Fayette), which was debated on the Senate floor Thursday. The bill is currently carried over to call of the chair.
- SB305 by Sen. Jimmy Holley (R—Elba) would prohibit new **municipal occupational taxes** in Alabama unless authorized by local legislative act. The bill received a favorable report Wednesday from the House County and Municipal Government Committee and is on the House Special Order Calendar for Tuesday.

*The House and Senate will reconvene on Tuesday, May 28. There are 6 meeting days remaining in the 2019 Regular Session.*