

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT 2023 REGULAR SESSION · WEEK SIX

APRIL 21, 2023

ECONOMIC DEVELOPMENT INCENTIVES ENACTED, \$3 BILLION GENERAL FUND BUDGET MOVES FORWARD

Gov. Kay Ivey's package of economic development incentives known as the "Game Plan" maintained its momentum this week, garnering final passage votes from the Legislature on Thursday in time for the governor to sign them into law before the close of business.

- The **Enhancing Alabama's Economic Progress Act** (Act 2023-34) renews the Alabama Jobs Act and the Growing Alabama program and extends their sunset dates to 2028 while adding strategic enhancements to increase their effectiveness. HB241 by Rep. Danny Garrett (R—Trussville) and Senate President Pro Tempore Greg Reed (R—Jasper) passed the Senate Thursday 29-6. Notably, five of the nay votes came from Republicans: Sens. Arthur Orr of Decatur, Sam Givhan of Gurley, Tim Melson of Florence, Dan Roberts of Birmingham and Shay Shelnett of Trussville.
- The **Site Evaluation and Economic Development Strategy (SEEDS) Act** (Act 2023-35) allows the State Industrial Development Authority to accelerate development of industry-ready sites at a time when available sites are scarce. SB165 by Sen. Arthur Orr (R—Decatur) and Rep. Danny Garrett (R—Trussville) passed the House unanimously on Thursday.
- The **Innovation and Small Business Act** (Act 2023-33) aims to supercharge growth in Alabama's innovation economy and support underrepresented businesses and enterprises in rural areas, transforming the state into a hub for technology and innovation. HB247 by Rep. Anthony Daniels (D—Huntsville) and Sen. Bobby Singleton (D—Greensboro) passed the Senate unanimously on Thursday.
- The **Enhancing Transparency Act** (Act 2023-36) requires the Alabama Department of Commerce to publish certain incentivized project information on its website. SB151 by Sen. Garlan Gudger (R—Cullman) and Rep. Cynthia Lee Almond (R—Tuscaloosa) passed the House Thursday on a unanimous vote, and the Senate concurred with a technical House change.

The proposed **FY2024 General Fund** budget showed momentum of its own. On Wednesday, the House Ways and Means Committee on the General Fund approved — with little discussion — a substitute budget, which totals \$3.024 billion, a \$15 million increase over the governor's recommendation. When House members reconvene Tuesday

afternoon, the budget — HB124 by Rep. Rex Reynolds (R—Huntsville) — sits atop the proposed work agenda for the day. Traveling alongside the budget is the committee’s rewritten HB125, which appropriates **\$202 million of budget surplus** for the current fiscal year. That marks about a \$13 million increase over the governor’s recommendation.

Notably, of interest to the business community, is SB220 related to **pharmacy benefit managers** (PBMs) which was introduced on Wednesday. SB220 would authorize a pharmacist to decline to dispense a prescribed drug to a covered individual if the pharmacist will be reimbursed for the drug by a PBM in an amount that is less than the pharmacist's cost to acquire the drug. Further, it would authorize a pharmacist to discuss matters relating to a pharmacy claim with a covered individual such as alternative therapies, which might include more costly options. The bill, sponsored by Sen. Tom Butler (R—Madison), has been assigned to the Senate State Government Committee and is on the committee’s agenda for next week. A public hearing has been requested.

Once again, lawmakers recorded a fast-paced, productive week. As is the case with most sessions, everything to this point has been harmonious. But, as is usually the case, tensions are beginning to surface at the session’s midpoint as the process becomes more deliberative. A proposal to revamp the Birmingham Water Works is a primary source of these tensions in both chambers. However, the most talked-about clash of the week was the **Battle of Goat Hill**, an annual charity softball game. The Senate retained bragging rights Wednesday, besting the House for the second year in row.

OVERVIEW OF THE WEEK

ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- A bill to expand an **income tax credit for certain port activities** was approved by the House Ports, Waterways, and Intermodal Transit Committee this week as substituted. HB293 is by Rep. Chip Brown (R—Mobile).

ENERGY & TRANSPORTATION

- The proceeds from **fuel taxes levied by counties and municipalities** could only be used for roads and bridges with limited exceptions under HB254 by Rep. Steve Clouse (R—Ozark). The House County and Municipal Government Committee approved it with a substitute. Sen. Shay Shelnett (R—Trussville) is sponsoring the Senate version.
- A bill to exclude certain **industrial access roads** from the public highway and street system of the state was approved Wednesday by the House Transportation, Utilities and Infrastructure Committee. HB291 is by Rep. Donna Givens (R—Loxley). Sen. Greg Albritton (R—Atmore) is sponsoring the companion, SB192, which was considered on the Senate floor Thursday and then carried over to the call of the chair.

CIVIL LIABILITY

- SB104 by Sen. Chris Elliott (R—Josephine) changes the standard used by courts

to hold **sellers of alcoholic beverages** liable for injuries caused by an intoxicated customer, and it was handled by Rep. David Faulkner (R—Birmingham) in the House. Gov. Kay Ivey signed it Wednesday, making the bill [Act 2023-25](#).

HEALTHCARE

- People with disabilities could not be discriminated against in organ transplants, according to a pair of bills that moved this week. [HB122](#) by Rep. Debbie Wood (R—Valley) was approved by the House Health Committee, while the Senate Healthcare Committee approved [SB208](#) by Sen. Randy Price (R—Opelika).
- A proposed income tax credit for students in certain health professions who train in rural or underserved areas was approved as substituted this week by the House Ways and Means Committee on Education. HB133 is by Rep. Neil Rafferty (D—Birmingham), and Sen. April Weaver (R—Alabaster) has the companion.
- Public schools and their athletic programs would have revised responsibilities aimed at **preventing sudden cardiac arrest** under [HB45](#) by Rep. Jeremy Gray (D—Opelika), which passed the House on Thursday.
- Legislation regulating **healthcare facility visitation** has been signed by Gov. Kay Ivey, making it [Act 2023-24](#). SB113 by Sen. Garlan Gudger (R—Cullman) was prompted by concern for citizens unable to visit loved ones during the pandemic.
- **Emergency medical personnel and services** would gain the same liability protections as other healthcare providers pursuant to [HB162](#) by Rep. Ed Oliver (R—Dadeville), which was approved Wednesday by the Senate Judiciary Committee. The Senate version — [SB96](#) by Sen. Sam Givhan (R—Gurley) — was approved Wednesday by the House Health Committee.
- The Alabama Medicaid Agency would be authorized to revise the **ceiling or maximum reimbursement rate for nursing facilities** more often under [HB279](#) by Rep. Kyle South (R—Fayette), which was approved this week by the House Ways and Means Committee on the General Fund. The bill resulted from a collaboration of the nursing home industry and the Medicaid commissioner to make a technical fix to the commissioner’s authority with regard to reimbursement in the event of budgetary stress. Sen. Greg Albritton (R—Atmore) is sponsoring the companion.
- Under existing law, each manufacturer, bottler, packager, wholesale drug distributor, or other entity in the **supply chain for pharmaceutical products** is required to obtain an annual permit from the Board of Pharmacy and pay an annual permit fee. [HB79](#) by Rep. Phillip Rigsby (R—Huntsville) would require each permit holder to designate a representative to register with the board and pay an additional annual registration fee. The bill was approved this week by the Senate State Governmental Affairs Committee. The Senate version is by Sen. Billy Beasley (D—Clayton).
- At present, the Board of Pharmacy has no way to regulate **remote work by pharmacists**, a need that emerged during the pandemic. [SB16](#) by Sen. Tom Butler (R—Madison), which would clarify licensing and permitting of this industry, won final passage Thursday in the House. SB16 is now pending with the governor, and the House companion is by Rep. Phillip Rigsby (R—Huntsville).

- **HB314** by Rep. Phillip Rigsby (R—Huntsville) proposes adjustments to **one-time emergency refills** dispensed by pharmacists, and it was approved by the House Health Committee this week.

MENTAL HEALTH

- **Appointed attorneys in commitment proceedings** could be compensated for certain work that occurs prior to the attorneys’ official appointment under **SB44** by Sen. Bobby Singleton (D—Greensboro), which passed the House on Tuesday. It is currently pending with the governor, and Rep. David Faulkner (R—Birmingham) is sponsor of the companion.

STATE RETIREMENT

- **Local governments in the Employees’ Retirement System** would have more time to opt in to the provisions of Act 2022-229, which allows for a one-time bonus payment to retirees. **SB92** by Sen. Josh Carnley (R—Ino) was approved Wednesday by the House Ways and Means Committee on the General Fund. The House version is by Rep. Reed Ingram (R—Mathews).
- A bill to revise the **state police tier II plan** within the Employees’ Retirement System passed the House on Tuesday. **SB68** by Sen. Clyde Chambliss (R—Prattville) is now pending with the governor.
- The **corrections commissioner and deputy commissioners who maintain APOSTC certification** would be designated as correctional officers or law enforcement officers for the purposes of state retirement under **SB129** by Sen. Bobby Singleton (D—Greensboro). The bill received approval this week from the Senate Judiciary Committee.

EDUCATION

- The state’s **ban on transgender athletes** in K-12 schools would be extended to higher education under **HB261** by Rep. Susan DuBose (R—Birmingham). The bill was **amended** before passing the House on Tuesday. Sen. April Weaver (R—Alabaster) introduced the companion bill this week.
- High school students would be required to complete a **financial literacy course** in order to graduate, with passage of **HB164** by Rep. Andy Whitt (R—Ardmore), which passed the House on Tuesday.

INSURANCE

- **Health insurers** could conduct all communications with enrollees electronically according to **SB167** by Sen. Josh Carnley (R—Ino), which was approved Wednesday by the Senate Banking and Insurance Committee.
- **Disability insurers could offer coverage for paid family leave** under **HB141** by Rep. Corley Ellis (R—Columbiana), which was approved Wednesday by the Senate Banking and Insurance Committee. The companion is **SB84** by Sen. Shay Shelnett (R—Trussville).
- **HB60** by Rep. Corley Ellis (R—Columbiana) would streamline some aspects of **insurance industry licensure**, and the bill was approved Wednesday by the Senate

Banking and Insurance Committee. A similar measure — SB139 by Sen. Shay Shelnett (R—Trussville) — is still carried over to the call of the chair in the Senate.

- **Public notice requirements for the Alabama Department of Insurance** would be revised pursuant to HB161 by Rep. David Faulkner (R—Birmingham), which was approved Wednesday by the Senate Banking and Insurance Committee. The companion is by Sen. Shay Shelnett (R—Trussville).
- An exception allowing active-duty military to secure **mandatory motor vehicle liability insurance** in the state where they reside won approval from the House on Tuesday. HB210 is by Rep. Rhett Marques (R—Enterprise). Sen. Josh Carnley (R—Ino) has the Senate companion.
- Local governments could not enforce **building codes requiring the installation of certain latent, non-operable features** (such as an electric vehicle charger) in a residential structure according to SB40 by Sen. Chris Elliott (R—Josephine), which passed the House on Thursday. Rep. Reed Ingram (R—Mathews) is sponsoring the House version.

EXECUTIVE POWERS

- This week the House State Government Committee approved SB62 by Sen. Sam Givhan (R—Gurley) to clarify the state’s ban on **price gouging during a state of emergency** so that the governor could specify if and where price controls should accompany a state of emergency. The House version of the bill is by Rep. Jamie Kiel (R—Russellville).

GOVERNMENT PROCUREMENT

- Multiple **competitive bidding thresholds** in state law would increase with SB108 by Sen. Linda Coleman-Madison (D—Birmingham), which would also establish an inflation adjustment going forward. The bill was approved Wednesday by the House State Government Committee.
- SJR16 by Sen. Bobby Singleton (D—Greensboro) received final passage in the House this week, to establish the **Joint Interim Study Commission on Responsible Technology Purchases**. The commission is charged with examining the fiscal impact of mass technology purchases by state government and public education, both K-12 and higher education. The group will evaluate the potential benefit of implementing a model total cost of ownership (TCO) matrix or calculator to utilize when making large purchases of technology. The resolution received the governor’s signature Thursday, becoming Act 2023-30.

MILITARY AFFAIRS

- HB44 by Rep. Chris Blackshear (R—Smiths Station) to expand the **Alabama Job Creation and Military Stability Commission** passed the House this week. The companion bill is by Sen. Billy Beasley (D—Clayton).
- Two bills are moving that would update the **Military Family Jobs Opportunity Act** to extend professional license reciprocity to spouses of U.S. Department of Defense civil servants. SB37 by Sen. Sam Givhan (R—Gurley) was approved Wednesday

by the House Military and Veterans Affairs Committee, and the committee also approved HB280 by Rep. Phillip Rigsby (R—Huntsville), the companion bill.

BANKING

- The procedures for **redeeming a property sold at a tax sale** would be revised under HB190 by Rep. Tim Wadsworth (R—Arley), which was scheduled for consideration in the House Judiciary Committee this week but did not come up. The Senate Fiscal Responsibility and Economic Development Committee was scheduled to consider the companion bill, but it was withdrawn from the agenda. SB172 is by Sen. Sam Givhan (R—Gurley).
- Many **county and municipal public notices**, such as advertisement of local legislation, would shift to online publication with passage of SB71 by Sen. Jack W. Williams (R—Wilmer). The bill was amended and approved this week by the House County and Municipal Government Committee.

STATE GOVERNMENT

- SB185 by Sen. Greg Albritton (R—Atmore) would establish the **Corrections Motor Vehicle Replacement Fund** to replace or repair department vehicles and equipment, and it would also allow the department to dispose of vehicles and equipment. The bill was scheduled for consideration Wednesday by the Senate Finance and Taxation Committee on the General Fund but did not advance.
- State agencies would be required to **take certain measures to prevent fraud** before paying benefits to recipients according to SB197 by Sen. Arthur Orr (R—Decatur). On Wednesday, the Senate State Governmental Affairs Committee approved the bill as amended.

ENVIRONMENT

- A proposal to **restrict the location or expansion of junkyards** was scheduled for consideration Wednesday by the House Ports, Waterways, and Intermodal Transit Committee but was carried over a second time. HB270 is by Rep. Shane Stringer (R—Citronelle).

EMPLOYMENT LAW

- When **determining if a driver is an employee or an independent contractor**, a motor carrier's implementation of safety requirements for drivers could not be considered under HB256 by Rep. Rhett Marques (R—Enterprise), which passed the House this week. The companion is SB183 by Sen. Garlan Gudger (R—Cullman), and it was approved this week by the Senate Fiscal Responsibility and Economic Development Committee.
- A **tax break for health insurance premiums** paid is available for some small businesses and some of their employees. This income tax deduction would be expanded to businesses employing less than 50 employees under HB273 by Rep. Jamie Kiel (R—Russellville). The bill was approved as amended Wednesday by the House Ways and Means Committee on Education, and there is a companion bill by Sen. Arthur Orr (R—Decatur).

MANUFACTURING

- Public works projects utilizing iron would be required to use **iron produced in the United States** according to HB157 by Rep. David Faulkner (R—Birmingham), which passed the House on Tuesday.
- The House gave final passage to SJR30 by Sen. Jabo Waggoner (R—Vestavia Hills) this week to **commend Alabama’s 2022 record export sales** and recognize the state’s international trade and export professionals, trade partners and businesses.

MUNICIPAL GOVERNMENT

- The cost of some **municipal business licenses** is based on gross receipts, and SB169 by Sen. Gerald Allen (R—Cottondale) would exclude from the gross receipts calculation any excise taxes paid to federal, state or local governments. The Senate County and Municipal Government Committee conducted a public hearing on the bill and approved it on Tuesday.

CONFIRMATIONS

- The Senate Confirmations Committee voted in favor of four nominees for the **State Board of Public Accountancy** — Michael Kintz, Alan Skinner, Tod Etheredge and Connie Sheppard-Harris. The nominations are now pending consideration by the Senate.

TAX REFORM

- At present, businesses must make **monthly estimated sales tax payments** to the state if their average monthly sales tax liability reaches \$5,000. HB77 by Rep. Danny Garrett (R—Trussville) proposes to increase the threshold to \$20,000 per month. The bill, projected to benefit 3,100 small businesses, passed the House on Thursday.

The Alabama Legislature will reconvene Tuesday, April 25, for the 14th of 30 possible working days in the regular session. The Legislature is expected to meet two days next week and pass the session’s midpoint.