

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT 2023 REGULAR SESSION · WEEK NINE MAY 12, 2023

MAJOR TORT REFORM LEGISLATION ADVANCES, OPEN RECORDS OVERHAUL GAINS BUSINESS-FRIENDLY REVISIONS

A major tort reform measure **protecting road and bridge contractors** passed the Senate on Thursday. Intense negotiations have yielded a heightened pleading structure that is intended to deter lawsuits filed against private contractors without a liability basis. SB159 by Sen. Clay Scofield (R—Guntersville) was passed incorporating last week's committee substitute and two floor amendments (1, 2). The current draft reflects an agreement between cities, counties, private contractors and plaintiffs' attorneys. The substitute more clearly and narrowly defines the scope of road and bridge contractors' potential liabilities as related to workmanship. The bill also heightens the burden of proof for plaintiffs who are intoxicated or distracted when injured in an accident.

Business-friendly concessions were secured this week in a **rewrite of the state's open records law** that originated with the Alabama Press Association. SB196 by Sen. Arthur Orr (R—Decatur) would establish new procedures for requesting and obtaining public records, and the version approved in the Senate this week had been substituted and amended. The substitute makes it a violation if government recordholders release private information, and it expressly upholds protections against disclosure contained elsewhere in the code. Negotiations are still ongoing about timelines; however, the substitute does increase the time allowed to produce requested records of a sensitive nature.

Behind the scenes, work on the state budgets and supplemental appropriations continued this week. The House has passed a **\$3.0 billion FY2024 General Fund budget** and a **\$202 million supplemental appropriation** from the General Fund, and the next step for these measures will be consideration by the Senate Finance and Taxation Committee on the General Fund. The Senate has passed an **\$8.8 billion FY2024 Education Trust Fund budget** and a **\$2.8 billion supplemental appropriation** for the current fiscal year. These are pending with the House Ways and Means Committee on Education.

Generally speaking, work was slowed this week by filibusters aimed at school choice proposals and changes to boards of registrars plus ripple effects from contentious debate about absentee ballot policies. With two-thirds of the session behind them, lawmakers have set an aggressive schedule for the coming week, with plans to go into formal session Tuesday, Wednesday and Thursday next week.

OVERVIEW OF THE WEEK

CANNABIS

- **Psychoactive cannabinoids from hemp** cannot be sold to anyone younger than 21 under SB66 by Sen. Tim Melson (R—Florence) and Rep. Russell Bedsole (R—Alabaster), which has been signed by the governor. It is now [Act 2023-169](#).
- Sunday, May 14, is the last day to make public comments to the **Alabama Medical Cannabis Commission** to support or oppose granting a medical cannabis business license to a particular applicant. Comments must be submitted [online](#). The commission is scheduled to award licenses June 12.

GENERAL BUSINESS

- SB261 by Sen. Dan Roberts (R—Birmingham) **would prohibit governmental entities from contracting with companies that engage in the economic boycott of businesses** in certain sectors and industries that fail to commit to certain environmental standards; that fail to commit to certain corporate governance criteria; or that fail to facilitate certain activities. The Senate Fiscal Responsibility and Economic Development Committee conducted a public hearing on the bill Wednesday and then approved it as [substituted](#).
- The **Alabama Nonprofit Corporation Law** would be updated to align with new national standards under [SB245](#) by Sen. Sam Givhan (R—Gurley), which was scheduled for consideration by the Senate Judiciary Committee on Wednesday but no action was taken. The companion is by Rep. Tim Wadsworth (R—Arley).

CIVIL LIABILITY

- The **statute of limitations for certain sex offenses** would be extended from 6 years to 36 years under [SB127](#) by Sen. Merika Coleman (D—Birmingham). The Senate Judiciary Committee conducted a public hearing on the bill Wednesday but took no further action.

TAX REFORM

- A **tax break for retirees** was on the House's working agenda for Thursday, but the body adjourned before considering it. [HB117](#) by Rep. Danny Garrett (R—Trussville) would exempt the first \$10,000 of taxable retirement income from defined contribution sources, up from the current exemption of \$6,000. Sen. Arthur Orr (R—Decatur) is sponsoring the companion.

ECONOMIC DEVELOPMENT & PORT-RELATED ISSUES

- Alabama's **incentives for the entertainment industry** would be updated and expanded pursuant to [HB429](#) by Rep. Jamie Kiel (R—Russellville), which was approved as [amended](#) this week by the House Ways and Means Committee on Education. Kiel's bill is scheduled for floor consideration in the House on Tuesday. The companion is by Sen. Garlan Gudger (R—Cullman).
- A bill to expand an **income tax credit for certain port activities** was on the House's working agenda for Thursday, but the body adjourned before considering it.

HB293 by Rep. Chip Brown (R—Mobile) was already substituted and amended in committee.

- Alabama’s voluntary **cleanup program for brownfield sites** would be bolstered by HB378 by Rep. Chip Brown (R—Mobile). As it passed the House Tuesday, the bill would extend liability protections to more parties that choose to participate in the program and create brownfield redevelopment districts, among other changes.
- State law on **boating and boating violations** would be comprehensively revised according to HB358 by Rep. Ginny Shaver (R—Leesburg). The House passed the bill Tuesday in substitute form.
- Under HB439 by Rep. David Faulkner (R—Birmingham), a **Growing Alabama Credit** from a parent or holding company could be claimed by a subsidiary in certain circumstances, and the change would apply retroactively. The House Ways and Means Committee on Education approved the bill with an amendment this week, and it is scheduled for House floor consideration Tuesday.
- SB299 by Sen. Arthur Orr (R—Decatur) would establish new **sunset provisions and reporting guidelines** for economic tax incentives, and it was approved with an amendment by the Senate Finance and Taxation Committee on Education.

ENERGY & TRANSPORTATION

- Senate Joint Resolution 6, in support of offshore oil and natural gas leasing and development, by Sen. Allen (R—Tuscaloosa) and Rep. Pringle (R—Mobile) received final approval by the Legislature this week.
- The proceeds from **fuel taxes levied by counties and municipalities** could only be used for roads and bridges with limited exception under HB254 by Rep. Steve Clouse (R—Ozark). It was approved this week by the Senate County and Municipal Government Committee. The companion — SB122 by Sen. Shay Shelnutt (R—Trussville) — was approved this week by the Senate Finance and Taxation Committee on the General Fund.
- According to HB404 by Rep. Thomas Jackson (D—Thomasville), the Alabama State Law Enforcement Agency would be required to issue a **hazardous material endorsement to commercial drivers** who hold valid transportation worker identification credentials from the U.S. Transportation Security Administration. The bill, which was approved this week by the House State Government Committee, is scheduled for House floor consideration Tuesday.
- **Municipal authority to set speed limits on county-maintained roads** within a municipality will be limited somewhat with SB33 by Sen. Steve Livingston (R—Scottsboro) and Rep. Debbie Wood (R—Valley). The governor signed it into law Tuesday as Act 2023-130.
- For environmental covenant purposes, SB268 by Sen. Steve Livingston (R—Scottsboro) would clarify that work regarding aboveground storage tanks registered for eligibility under the **Alabama Underground and Aboveground Storage Tank Trust Fund** does not constitute an environmental response project. It was approved Wednesday by the Senate Fiscal Responsibility and Economic Development Committee. On Tuesday, the House is scheduled to consider the

companion bill, [HB390](#) by Rep. Kyle South (R—Fayette).

HEALTHCARE

- Legislation supporting **Alabama’s mental health crisis services — including the 988 emergency number** for mental health crises — was discussed in a public hearing in the House Ways and Means Committee on the General Fund this week. [HB389](#) by Rep. Rex Reynolds (R—Huntsville) proposes a \$0.98 assessment per month on telephones and cell phones to support mental health crisis services, the comprehensive and foundational structure of which has been established through legislative measures passed in previous sessions. The House Ways and Means Committee on the General Fund is expected to vote on the bill next week.
- A 2019 state law requires the Alabama Board of Medical Examiners to adopt rules governing the prescribing and usage of medications containing **buprenorphine to treat opioid addiction**, but recent changes at the federal level conflict with provisions of this Alabama law. [SB239](#) by Sen. Larry Stutts (R—Tuscumbia) would repeal the 2019 state law, and it was approved Wednesday by the House Health Committee. The committee also approved the companion, [HB433](#) by Rep. Frances Holk-Jones (R—Foley).
- The **scope of practice for optometrists** would expand under [HB349](#) by Rep. Danny Garrett (R—Trussville), which passed the House Tuesday. The Senate Healthcare Committee is scheduled to take up the bill Wednesday.
- The **Physician Workforce Act seeks to address workforce shortages** by providing certain contingency licenses for physicians who under current law may not otherwise be given a path to board certification. [SB155](#) by Sen. April Weaver (R—Alabaster) and Rep. Paul Lee (R—Dothan) passed the House Tuesday with an amendment, and the Senate has concurred. The bill is pending with the governor.
- People with **disabilities could not be discriminated against in organ transplants**, according to [HB122](#) by Rep. Debbie Wood (R—Valley), which passed the House Tuesday as substituted. The Senate Healthcare Committee is scheduled to conduct a public hearing on it next week. The companion is [SB208](#) by Sen. Randy Price (R—Opelika).
- [HB314](#) by Rep. Phillip Rigsby (R—Huntsville) proposes adjustments to **one-time emergency refills** dispensed by pharmacists, and it passed the Senate Thursday. The bill is now pending with the governor.
- The **Alabama Loan Repayment Program for Nursing Education** would be created with passage of [SB57](#) by Sen. April Weaver (R—Alabaster), which was approved Wednesday by the House Ways and Means Committee on Education.
- **Licensure standards for prosthetists and orthotists** would be updated pursuant to [SB18](#) by Sen. Billy Beasley (D—Clayton), which was approved Wednesday by the House Health Committee.
- **Licensed paramedics would not be required to have a college degree** according to [HB417](#) by Rep. Phillip Pettus (R—Killen), which was approved by the House Health Committee Wednesday with an amendment. The House is scheduled to take it up Tuesday.

- The Alabama Medicaid Agency would be authorized to revise the **ceiling or maximum reimbursement rate for nursing facilities** more frequently under SB189 by Sen. Greg Albritton (R—Atmore), which was approved by the House Ways and Means Committee on the General Fund. The companion is by Rep. Kyle South (R—Fayette). 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 regarding reimbursement in the event of budgetary stress.

STATE RETIREMENT

- The circumstances under which a person’s benefits from the **Teachers’ Retirement System or Employees’ Retirement System** are **subject to certain recovery actions** would be revised under HB371 by Rep. Jamie Kiel (R—Russellville). The bill was approved Wednesday by the House Judiciary Committee.
- State retirees working as **school resource officers** are subject to the same earnings cap as other retirees if they want to continue to draw retirement. The inflation-adjusted cap stands at \$37,000 presently, and SB174 by Sen. Arthur Orr (R—Decatur) would exempt school resource officer earnings from afterschool events from the cap. The bill was approved Wednesday by the House Ways and Means Committee on the General Fund with a substitute and an amendment.
- As it passed the House, HB41 by Rep. Rex Reynolds (R—Huntsville) would have increased the **earnings cap for all retired state employees and teachers** who return to work. However, the substitute approved Wednesday by the Senate Finance and Taxation Committee on the General Fund lifts the cap **only for retirees working as school resource officers or correctional officers**. Sen. Sam Givhan (R—Gurley) is sponsoring the companion.
- 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 was approved Wednesday by the House Ways and Means Committee on the General Fund.

EDUCATION

- 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 the Senate passed Thursday. It is pending with the governor.
- 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), which passed the Senate as amended last week. House concurrence with the Senate’s change is pending. Sen. April Weaver (R—Alabaster) is sponsoring the Senate version.
- Students would be required to complete a **financial literacy course** in order to graduate from high school with passage of HB164 by Rep. Andy Whitt (R—Ardmore), which passed the Senate last week. It is pending with the governor.

INSURANCE

- In post-adjudication situations, rules for **driver license suspension** for failure to appear in court or a missed payment would change under SB154 by Sen. Will Barfoot (R—Pike Road) to extend some grace so citizens can continue driving to work and other responsibilities. The new standard would be two missed court appearances or six missed payments. Barfoot's amended bill was on the House's working agenda for Thursday, but the body adjourned before considering it, and it is now set for consideration Tuesday. Rep. Tim Wadsworth (R—Arley) has the companion.
- **Health insurers** could conduct all communication with enrollees electronically according to SB167 by Sen. Josh Carnley (R—Ino), which passed the House Tuesday, sending it on to the governor. The House version is by Rep. Brock Colvin (R—Guntersville).
- **Public notice requirements for the Alabama Department of Insurance** would be revised pursuant to HB161 by Rep. David Faulkner (R—Birmingham) and Sen. Shay Shelnett (R—Trussville), which received House concurrence with Senate changes on Tuesday. The bill is now pending with the governor.
- An exception allowing active-duty military to secure **mandatory motor vehicle liability insurance** in the state where they reside has become law. HB210 by Rep. Rhett Marques (R—Enterprise) and Sen. Josh Carnley (R—Ino) is Act 2023-127.

GOVERNMENT PROCUREMENT

- The reach of the **Alabama Transportation Infrastructure Bank** would expand with SB205 by Sen. Arthur Orr (R—Decatur), which was approved Wednesday by the House Ways and Means Committee on the General Fund. The bill would extend funding eligibility to additional entities and less expensive projects.
- Multiple **competitive bidding thresholds** in state law will increase with SB108 by Sen. Linda Coleman-Madison (D—Birmingham), which also establishes an inflation adjustment going forward. It was signed by the governor Wednesday, becoming Act 2023-135.
- The **competitive bid threshold for public works projects** would increase from \$50,000 to \$100,000 according to HB168 by Rep. Kerry Underwood (R—Tuscumbia). It was approved by the House State Government Committee on Wednesday as substituted and amended.
- The Senate Fiscal Responsibility and Economic Development Committee agenda for Wednesday included **two more proposals to adjust competitive bid requirements**. The committee approved as substituted SB290 by Sen. Sam Givhan (R—Gurley), which is specific to bid thresholds for **public works contracts**. The committee also approved SB291 by Sen. Merika Coleman (D—Birmingham), which would **expand competitive bid exemptions** to include some computer programs and software, as well as certain law enforcement equipment, services and programs.

MILITARY AFFAIRS

- HB44 by Rep. Chris Blackshear (R—Smiths Station) and Sen. Billy Beasley (D—Clayton) to expand the **Alabama Job Creation and Military Stability Commission** passed the Senate last week and is pending with the governor.
- The House passed a bill last week to 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) and Rep. Phillip Rigsby (R—Huntsville) is pending with the governor.

BANKING

- A bill to prohibit consideration of **environmental, social and governance (ESG) criteria** when awarding a public contract and to require a responsible bidder to certify that its employees will not be subject to a personal ESG rating as a basis of hiring, firing, or evaluation was on the House’s working agenda for Thursday, but the body adjourned before considering HB188 by Rep. Chip Brown (R—Mobile).
- **Financing arrangements for the sale or lease of motor vehicles** would be adjusted under SB15 by Sen. Shay Shelnett (R—Trussville). The bill, which affects insurance of motor vehicle value protection agreements, was on the House’s working agenda for Thursday, but the body adjourned before considering it.
- The **mortgage recording fee** would increase from \$0.15 to \$0.30 per \$100 of indebtedness under SB107 by Sen. Linda Coleman-Madison (D—Birmingham). The bill was approved this week by the Senate Finance and Taxation Committee on the General Fund.
- SB11 by Sen. Will Barfoot (R—Pike Road) and Rep. Cynthia Lee Almond (R—Tuscaloosa) would revise the **Alabama Uniform Trust Code** to increase the threshold at which a noneconomic trust can be terminated. It passed the House last week and is pending with the governor.

STATE GOVERNMENT

- The **Alabama Ethics Commission** would be required to provide exculpatory evidence to alleged violators according to SB103 by Sen. Arthur Orr (R—Decatur), which was amended and approved by the House Ethics and Campaign Finance Committee this week.

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 SB183 by Sen. Garlan Gudger (R—Cullman) and Rep. Rhett Marques (R—Enterprise). It passed the House Tuesday and is pending with the governor.
- It would be **illegal for employers to require employees to be microchipped** under HB4 by Rep. Prince Chestnut (D—Selma). The Senate Judiciary Committee approved a substitute to the bill on Wednesday.

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 Senate last week and is pending with the governor.

RECREATION

- **Amusement rides and water slides** would be subject to new safety requirements pursuant to HB352 by Rep. Alan Baker (R—Brewton), which was approved Wednesday by the Senate Tourism Committee. The companion is by Sen. Greg Albritton (R—Atmore).
- **Wakeboarding and wakesurfing on Smith Lake** would be regulated according to HB422 by Rep. Tim Wadsworth (R—Arley), which was approved Wednesday by the House Public Safety and Homeland Security Committee. The companion by Sen. Garlan Gudger (R—Cullman) was scheduled for consideration in the Senate County and Municipal Government Committee this week but did not advance.

RETAIL

- The **crime of shoplifting** would be established separately from theft pursuant to SB206 by Sen. Clyde Chambliss (R—Prattville), which passed the Senate Thursday with a floor amendment. The bill, to be known as the Retail Theft Crime Prevention Act, is a top priority of Lt. Gov. Will Ainsworth and district attorneys, and the companion is by Rep. Allen Treadaway (R—Morris).

LOCAL 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. It was the subject of a public hearing in the House County and Municipal Government Committee, where the bill was carried over.

JUDICIARY

- Multiple attempts have been made to **add trial judges in growing areas** of the state, and the Senate took up SB39 by Sen. Sam Givhan (R—Gurley) Thursday to create — in specific areas of the state — four circuit judgeships and three district judgeships in 2024 followed by four circuit judgeships and two district judgeships in 2026. The Senate tabled a committee substitute for the bill before adopting and passing a floor substitute. Next week, SB39 is scheduled for consideration by the House Judiciary Committee.

REAL ESTATE

- **Condemnations and other judgments involving boundaries or titles** would have to be recorded in the probate court of the county where the land is located per HB328 by Rep. Ben Robbins (R—Sylacauga). The amended bill was on the House's working agenda for Thursday, but the body adjourned before considering it.
- **Chinese citizens, entities and the Chinese government** would be prohibited from owning property in Alabama pursuant to HB379 by Rep. Scott Stadthagen (R—Hartselle). The bill passed the House Tuesday with a floor amendment.

- In residential real estate, **buyers would be required to disclose intent to engage aspects of a wholesale transaction** under one provision of [SB228](#) by Sen. Dan Roberts (R—Birmingham), which passed the House Tuesday and is now pending with the governor. The bill would also deem unenforceable certain unfair service agreements purporting to establish a long-term right to list.

TECHNOLOGY

- Alabama’s **Uniform Commercial Code** would undergo substantial revision according to HB348 by Rep. David Faulkner (R—Birmingham), and the bill includes a new article governing the transfer of **property rights in certain intangible digital assets** including electronic rights to payment. The House passed a committee substitute version of the bill on Tuesday.
- **Manufacturers of some internet-enabled devices** would be required to automatically activate filters to block access to pornography if [HB298](#) by Rep. Chris Sells (R—Greenville) becomes law. The bill is scheduled for consideration Tuesday on the House floor.

HISTORIC PRESERVATION

- **Tax credits for rehabilitating historic buildings** would be revised under HB253 by Rep. Adline Clarke (D—Mobile). The House passed a substitute version Tuesday.

ELECTIONS

- The **2024 Primary Election Runoff** would be rescheduled under [HB339](#) by Rep. Chris Pringle (R—Mobile). Following the standard election calendar, the 2024 runoff would be the Tuesday after Easter Sunday, and this bill would delay the runoff for two weeks in this one instance. The bill was considered and carried over by the House Constitution, Campaigns and Elections Committee on Wednesday.
- **Political action committees** would be allowed to contribute to political parties in certain situations according to [SB289](#) by Sen. Sam Givhan (R—Gurley), which was approved Wednesday by the Senate Finance and Taxation Committee on the General Fund.

DAM SAFETY

- [SB284](#) by Sen. Clyde Chambliss (R—Prattville) would establish a **comprehensive dam safety program** under the oversight of the Alabama Department of Environmental Management. The Senate State Governmental Affairs Committee approved the bill this week.

TOBACCO

- HB319 by Rep. Barbara Drummond (D—Mobile) would **enhance enforcement of tobacco and vape laws** administered by the Alabama Alcoholic Beverage Control Board and increase penalties for violations. It would also set standards for manufacturers of e-liquids and alternative nicotine products overseen by the Alabama Department of Revenue. The House is scheduled to take up HB319 in substitute form on Tuesday. The companion is by Sen. Garlan Gudger (R—Cullman).

CONFIRMATIONS

- The Senate Confirmations Committee is scheduled to take up the following appointments next week: John McCartney, Ron Houston, Britton Lightsey and John Mitchell to the **Alabama Community College System Board of Trustees**; and William Aycock to the Advisory Board of the **Manufactured Housing Commission**.

*The Alabama Legislature will reconvene on Tuesday, May 16,
for the 21st of 30 possible working days in the regular session.*

It is expected to be a three-day week.