

FINE GEDDIE

GOVERNMENT RELATIONS

THE FINE GEDDIE REPORT 2023 REGULAR SESSION · WEEK FIVE

APRIL 14, 2023

ECONOMIC DEVELOPMENT INCENTIVES ADVANCE, CONSTRUCTION INDEMNITY BILL APPEARS TO STALL

Gov. Kay Ivey’s package of economic development incentive bills known as the “Game Plan” has made swift progress with some modifications along the way.

- The **Enhancing Alabama’s Economic Progress Act** would renew the Alabama Jobs Act and the Growing Alabama program and extend their sunset dates to 2028 while adding strategic enhancements to increase their effectiveness. HB241 by Rep. Danny Garrett (R—Trussville) passed the House on Thursday morning. The committee-passed bill picked up one floor amendment by Rep. David Standridge (R—Hayden) to change the definition of “targeted counties” to those with populations of 60,000 or less, up from 50,000 or less. Among other changes this week, provisions benefiting the tourism industry were significantly expanded.
- The **Site Evaluation and Economic Development Strategy (SEEDS) Act** would allow the State Industrial Development Authority to accelerate development of industry-ready sites at a time when available sites are scarce and other states are expanding their site programs. Separate versions passed the House and Senate this week: SB165 by Sen. Arthur Orr (R—Decatur) passed the Senate, while HB257 by Rep. Danny Garrett (R—Trussville) passed the House with one floor amendment. One notable revision would make grants available for sites of 75 contiguous acres, down from 200 acres. The state’s topography is such that the larger parcels of flat land do not exist in some areas.
- The **Innovation and Small Business Act** 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) passed the House in its original form.
- The **Enhancing Transparency Act** would require the Alabama Department of Commerce to publish certain incentivized project information on its website. Thursday’s Senate-passed version of SB151 by Sen. Garlan Gudger (R—Cullman) reflects the incorporation of one floor amendment. In the House, HB240 by Rep. Cynthia Lee Almond (R—Tuscaloosa) passed Thursday as it was introduced.

Meanwhile, a civil liability bill seeking to address conflict between sectors of the construction industry did not advance. The Senate Judiciary Committee conducted a

public hearing Wednesday on a proposal to **regulate indemnification agreements in some construction contracts**. Current law allows property owners to shift construction site liability to general contractors through contracts, but SB24 by Sen. Greg Albritton (R—Atmore) would take away that freedom. The bill was carried over by the sponsor after several stakeholders testified for and against the bill. We believe that the sponsor has heard our concerns and understands the problematic breadth of the legislation, however it is apparent that he still has concerns about certain instances where a small business contractor might bear unreasonable and unexpected risk. We do not expect the bill to move this session and will continue to monitor Senator Albritton’s concerns.

Overall, lawmakers notched another productive week as they largely maintained the brisk pace they set after the special session. Nevertheless, a House bill related to the Birmingham Water Works moved out of a House committee this week, and its anticipated controversy has already triggered a drastic slowdown in the Senate. There also seems to be an appetite for holistic evaluation of certain regulatory boards and commissions as seen in one proposal to consolidate many occupational licensing boards under one superagency, and this view appears to be impacting what would otherwise be routine sunset bills which are undergoing additional scrutiny.

OVERVIEW OF THE WEEK

ENERGY & TRANSPORTATION

- **Municipal authority to set speed limits on county-maintained roads** within a municipality would be curbed under SB33 by Sen. Steve Livingston (R—Scottsboro), which passed the House Transportation, Utilities and Infrastructure Committee this week. The House companion is by Rep. Debbie Wood (R—Valley).
- Law enforcement would have a new tool to combat **exhibition driving** under HB29 by Rep. Allen Treadaway (R—Morris), which passed the House on Tuesday with a floor amendment. The Senate version is by Sen. Rodger Smitherman (D—Birmingham).
- 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). After Wednesday’s public hearing, the House County and Municipal Government Committee carried the bill over. 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 by the Senate Finance and Taxation Committee on the General Fund on Wednesday. SB192 is sponsored by Sen. Greg Albritton (R—Atmore). Rep. Donna Givens (R—Loxley) introduced the House version.

CIVIL LIABILITY

- The House passed a **civil liability bill** this week developed with input from the business community and the plaintiff’s bar. SB104 by Sen. Chris Elliott (R—Josephine) would change the standard used by courts to hold **sellers of alcoholic beverages** liable for injuries caused by an intoxicated customer. The bill is now

pending with the governor.

HEALTHCARE

- Public schools and their athletic programs would have revised responsibilities aimed at **preventing sudden cardiac arrest** under HB45 by Rep. Jeremy Gray (D—Opelika). The House Children and Senior Advocacy Committee approved a revised version of the bill this week.
- Legislation concerning **healthcare facility visitation** has gone to the governor for consideration after the Senate concurred with House changes on Tuesday. SB113 by Sen. Garlan Gudger (R—Cullman) was prompted by concern for citizens who were unable to visit loved ones in hospitals or nursing homes during the pandemic, and the House had added language regarding clergy visitation.
- **Emergency medical personnel and services** would gain the same liability protections as other health care providers pursuant to HB162 by Rep. Ed Oliver (R—Dadeville), which passed the House on Tuesday. The Senate version is by Sen. Sam Givhan (R—Gurley).
- The **scope of practice for podiatrists** would be revised under SB28 by Sen. Tim Melson (R—Florence), which was approved this week by the House Health Committee.
- The **Physician Workforce Act seeks to address workforce shortages** by providing for certain contingency licenses for physicians who under current law may not otherwise be given a path to board certification. HB243 by Rep. Paul Lee (R—Dothan) was approved by the House Health Committee this week, and the companion by Sen. April Weaver (R—Alabaster) was approved by the Senate Healthcare Committee.
- The Alabama Medicaid Agency would be authorized to revise the **ceiling or maximum reimbursement rate for nursing facilities** during a fiscal year under SB189 by Sen. Greg Albritton (R—Atmore), which was approved by the Senate Finance and Taxation Committee on the General Fund this week. The bill is 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. Rep. Kyle South (R—Fayette) introduced the companion bill this week.
- 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 passed the House Tuesday, and 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, was approved by the House Health Committee on Wednesday. The House companion

is by Rep. Phillip Rigsby (R—Huntsville).

CANNABIS

- **Psychoactive cannabinoids from hemp** could not be sold to anyone younger than 21 under SB66 by Sen. Tim Melson (R—Florence), which was the focus of a public hearing Wednesday in the House Health Committee. The committee carried over Melson’s bill but approved the companion — HB219 by Rep. Russell Bedsole (R—Alabaster) — with one amendment.
- The **Alabama Medical Cannabis Commission** formally accepted applications for medical cannabis business licenses on Thursday, and the next step will be the grading process.

STATE RETIREMENT

- A bill affecting **hazardous duty time** was approved by the Senate Finance and Taxation Committee on the General Fund this week. HB66 by Rep. Joe Lovvorn (R—Auburn) would remove the time limit for firefighters, law enforcement and correctional officers in the Retirement Systems of Alabama to purchase hazardous duty time.
- A bill to revise the **state police tier II plan** within the Employees’ Retirement System was approved by the House Ways and Means Committee on the General Fund this week. SB68 is by Sen. Clyde Chambliss (R—Prattville).
- 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 extracurricular events from the cap. The bill was approved by the Senate Finance and Taxation Committee on Education on Tuesday.

TOBACCO

- **Smoking or vaping in a motor vehicle in the presence of a child** would be banned pursuant to HB3 by Rep. Rolanda Hollis (D—Birmingham), which passed the Senate Veterans, Military Affairs and Public Safety Committee on Thursday.

EDUCATION

- The **ReEngage Alabama Grant program** would provide financial aid to certain adult Alabamians who return to two- or four-year college to complete a degree under SB175 by Sen. Arthur Orr (R—Decatur), subject to funding availability. The bill was approved by the Senate Finance and Taxation Committee on Education on Tuesday.
- With passage of SB176 by Sen. Arthur Orr (R—Decatur), students would have new data about the **employment opportunities and earnings potential of the most popular college degrees** to inform their decision-making. The bill was approved Tuesday by the Senate Finance and Taxation Committee on 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,

which was the subject of a public hearing Wednesday, was approved by the House Education Policy Committee.

WORKFORCE

- The Senate Education Policy Committee amended and approved HB109 by Rep. Terri Collins (R—Decatur), a comprehensive workforce development measure that has been a long-time priority for the sponsor. It seems to be moving quickly after running into hurdles in years past. Among its provisions, the bill would create a 24-member **Alabama Workforce Council Committee on Credential Quality and Transparency** to advise the Alabama Committee on Credentialing and Career Pathways and make credential and competency data publicly available.

INSURANCE

- Disability insurers could offer coverage for **paid family leave** under SB84 by Sen. Shay Shelnett (R—Trussville), which was approved by the House Insurance Committee this week. The House version by Rep. Corley Ellis (R—Columbiana) passed the House on Tuesday.
- SB139 by Sen. Shay Shelnett (R—Trussville) would make multiple updates to **insurance industry licensure**, including eliminating prelicensure courses now required before taking some licensing exams. The bill was considered on the Senate floor Tuesday and is currently carried over to the call of the chair. The House version is by Rep. Corley Ellis (R—Columbiana).
- **Public notice requirements for the Alabama Department of Insurance** would be revised pursuant to SB138 by Sen. Shay Shelnett (R—Trussville), which passed the Senate on Tuesday. In addition, the companion — HB161 by Rep. David Faulkner (R—Birmingham) — passed the House on Tuesday.
- An exception allowing active duty military to secure **mandatory motor vehicle liability insurance** in the state where they reside won approval from the House Military and Veterans Affairs Committee this week. HB210 is by Rep. Rhett Marques (R—Enterprise), and the Senate Veterans, Military Affairs and Public Safety Committee on Thursday approved the companion bill by Sen. Josh Carnley (R—Ino).
- 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). The bill was amended and approved by the House County and Municipal Government Committee. The committee also amended and approved the companion bill, HB274 by Rep. Reed Ingram (R—Mathews).
- 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 “give a little more grace” so citizens can continue driving to work and other responsibilities, Barfoot said. The new standard would be two missed court appearances or six missed payments. The bill was approved as amended by the Senate Judiciary Committee with little discussion. The House

companion by Rep. Tim Wadsworth (R—Arley) was scheduled for consideration by the House Public Safety and Homeland Security Committee this week but did not advance.

EXECUTIVE POWERS

- This week the Senate 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

- SJR16 by Sen. Bobby Singleton (D—Greensboro) received final passage in the House this week, establishing 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 state’s **Office of the Chief Procurement Officer** would become the Division of Procurement under SB100 by Sen. Arthur Orr (R—Decatur), which goes on to make further adjustments to procurement in the state and to the role of the Contract Review Legislative Oversight Committee. The bill received approval Tuesday from the Senate Finance and Taxation Committee on Education.
- Under HB51 by Rep. Corley Ellis (R—Columbiana), the **competitive bidding threshold** for certain local and education agencies would increase from \$15,000 to \$30,000, and the bill would also increase other bidding thresholds, all with a mechanism to adjust for inflation in the future. It passed the House on Tuesday.
- The reach of the **Alabama Transportation Infrastructure Bank** would expand with passage of SB205 by Sen. Arthur Orr (R—Decatur), which passed the Senate Transportation and Energy Committee this week. The bill would extend funding eligibility to additional entities and less expensive projects.

MILITARY AFFAIRS

- The Alabama Legislature observed **Military Appreciation Day** on Thursday with a joint session of the two chambers and special guests, and the U.S. Army post in the state’s southeastern corner was officially renamed this week, going from Fort Rucker to Fort Novosel.
- Also on Thursday, SB19 by Sen. Billy Beasley (D—Clayton) to expand the **Alabama Job Creation and Military Stability Commission** passed the Senate. Rep. Chris Blackshear (R—Smiths Station) has the companion version.
- The Senate also passed a modified version of SB37 by Sen. Sam Givhan (R—Gurley) to extend professional license reciprocity to spouses of U.S. Department of Defense civil servants. The measure is an update of the **Military Family Jobs Opportunity Act**.

BANKING

- **SB11** by Sen. Will Barfoot (R—Pike Road) would revise the **Alabama Uniform Trust Code** to increase the threshold at which a noneconomic trust can be terminated. It passed the House Judiciary Committee this week, while the companion version by Rep. Cynthia Lee Almond (R—Tuscaloosa) passed the House this week.
- 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 passed the Senate Tuesday with a committee amendment and a floor amendment. The House County and Municipal Government Committee conducted a public hearing Wednesday on a similar bill, **HB106** by Rep. Cynthia Lee Almond (R—Tuscaloosa) and approved it with two amendments (1, 2).
- An **investment pool for local government funds** would be established in the state treasurer’s office under **HB49** by Rep. Reed Ingram (R—Mathews), which was brought up on the House floor Tuesday and is currently carried over. A committee amendment is pending.

STATE GOVERNMENT

- A proposed **pay raise with health insurance for the boards of registrars** was removed from the agenda of the House Ways and Means Committee on the General Fund this week. **SB45** is by Sen. Will Barfoot (R—Pike Road).
- 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 approved by the Senate Judiciary Committee this week.
- A bill to **consolidate multiple occupational licensure boards** into the secretary of state’s office was the subject of a public hearing in the Senate County and Municipal Government Committee on Wednesday. The committee approved **SB156** by Sen. Chris Elliott (R—Josephine) with an amendment.

ECONOMIC DEVELOPMENT

- A bill to adjust **property tax abatements** granted to industrial or research enterprises was scheduled for a public hearing in the House State Government Committee on Wednesday. No hearing was conducted, and **HB259** by Rep. Margie Wilcox (R—Mobile) did not come up.

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. **HB270** is by Rep. Shane Stringer (R—Citronelle).

CORRECTIONS

- Attorney General Steve Marshall has stripped the **Department of Corrections’ legal staff** of their status as deputy or assistant attorneys general, which removes their ability to litigate on the agency’s behalf.

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 was approved as amended by the House Commerce and Small Business Committee this week. The companion is by Sen. Garlan Gudger (R—Cullman).

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 was approved this week by the House Commerce and Small Business Committee.
- The Senate passed SJR30 by Sen. Jabo Waggoner (R—Vestavia Hills) on Tuesday to **commend Alabama's 2022 record export sales** and recognize the state's international trade and export professionals, trade partners and businesses.

OPEN RECORDS

- An **open records law rewrite** originating with the Alabama Press Association was introduced on Tuesday and approved by the Senate County and Municipal Government Committee the next day, despite not being on the committee agenda. SB196 by Sen. Arthur Orr (R—Decatur) would establish procedures for requesting and obtaining public records.

The Alabama Legislature will reconvene on Tuesday, April 18, for the 11th of 30 possible working days in the regular session. The Legislature is expected to meet three days next week and then resume two-day legislative weeks.