
2021 Legislative Update: Week 6

Overview

For the first time since the session began on February 2, the Legislature met for two legislative days this week. As of this writing, representatives and senators have met for 14 legislative days out of a possible 30 and will return next week for two more legislative days before a planned one-week Spring Break. While the time spent in the House and Senate Chambers may have been less than usual, the week started with a surprise and included plenty of work in committee and on the floor.

Gaming Bills

As promised, Senate Bill 214, the comprehensive gaming bill introduced by Sen. Del Marsh of Anniston, made its return to the Senate floor on Tuesday. Behind the scenes, the legislation had been the subject of much discussion between proponents and politicians over the past few weeks, with much of the conversation focusing on where casinos would be located and how new tax revenues would be distributed.

But after a lengthy debate on the Senate floor, which included the adoption of several amendments, including one that increased the number of casinos to 10, Marsh's legislation fell two votes shy of what was needed for passage. The final vote was 19-13, but since the bill was a proposed constitutional amendment, a total of 21 votes were necessary. Importantly, two Senators, Sen. Priscilla Dunn of Bessemer and Sen. Malika Sanders-Fortier of Selma, were absent due to health reasons, and a vacancy exists in one Senate district, District 14, due to former Sen. Cam Ward's appointment as Director of the Board of Pardons and Paroles. Had those votes been available, the result may have been different. Moreover, Marsh, long a major force in the upper chamber, stated after the vote that as many as six unnamed Senators had changed their votes over the past few weeks. It will be interesting to see if Marsh brings the bill back to the floor.

But even if Senate Bill 214 is officially dead, other gaming-related bills are still very much alive. In fact, six bills – three by Marsh, two by Sen. Jim McClendon of Springville, and one by Sen. Garlan Gudger of Cullman – were introduced in the Senate within hours of the vote on Marsh's bill. And if State House rumors are to be believed, the gaming debate may not be over even if none of these bills pass, as some believe Gov. Ivey may call a Special Session focused on gaming sometime this summer.

Driving this debate, at least to a degree, are polling numbers showing that a casino gaming and lottery bill is extremely popular among Republican primary voters. The bill also provides a potential avenue of funding for broadband connectivity, a topic of major importance to rural legislators. Given that, it's very likely that even given Tuesday's vote, this debate is far from over.

Medical Marijuana

After passing the Senate two weeks ago, Senate Bill 46, the medical marijuana bill sponsored by Sen. Tim Melson, was finally up for debate in the House. The bill's first stop was the House Judiciary Committee, chaired by Rep. Jim Hill of Odenville. Per the Chairman's request, no vote was taken on the bill. When and

if it is reported out of committee, however, Speaker Mac McCutcheon of Monrovia has stated that the bill will also have to be referred to the Health Committee, which is chaired by Rep. Paul Lee of Dothan. The bill is being managed in the House by Rep. Mike Ball of Huntsville.

PBM Legislation

The Senate Banking and Insurance Committee held one of its longest public hearings in recent memory on Wednesday. Up for debate was Senate Bill 227 by Sen. Tom Butler of Madison, a bill that would impose several restrictions on how pharmacy benefit managers, or PBMs, are allowed to operate in the prescription drug delivery pipeline. Butler, a pharmacist, was joined in his testimony by two other legislators: Sen. Billy Beasley of Clayton, who is also a pharmacist, and Rep. David Knight of Griffin, Georgia, who passed PBM-related legislation in Georgia two years ago. Opposing the bill were representatives of the state insurance program that services public education employees, the CFO of the Great Southern Wood company, a policy director for the University of South Alabama, and key governmental affairs staffers for the Business Council of Alabama and Blue Cross and Blue Shield. Several opponents of the bill testified that the legislation would increase prescription costs for employers by approximately \$1,000 per employee each year. No vote was taken, which is not unusual following a Public Hearing. But the legislation will likely return after Spring Break.

Budgets

The State General Fund budget for FY 2022, which begins October 1, passed out of the House on Tuesday on a vote of 101-1. At \$2.4 billion, House Bill 309, sponsored by Ways and Means General Fund Committee Chairman Rep. Steve Clouse of Ozark, represents the largest State General Fund budget in the state's history. In addition to funding a 2% salary increase for state employees, the bill includes an additional \$30 million for the Board of Pardons and Paroles, an additional \$26 million for the Department of Corrections, an additional \$10 million for the Department of Mental Health, and, thanks to a change in the federal reimbursement formula, a \$50 million decrease in the appropriation to the state Medicaid program. The budget now moves to the Senate, where it will be managed by Senate Finance and Taxation Committee Chairman Greg Albritton of Bay Minette.

Hot Topics

- Senate Bill 10 by Sen. Shay Shelnett of Trussville was the subject of a public hearing this week in the House Health Committee. The bill, the Vulnerable Child Compassion and Protection Act, prohibits the performance of a medical procedure or the prescription or issuance of medication upon or to a minor child that is intended to alter the appearance of the minor child's gender or delay puberty. The committee did not take a vote on the bill.
- House Bill 404 by Rep. Kyle South of Fayette passed the House on Tuesday. This bill creates a pathway for college football athletes to hire agents and receive payment for making appearances or letting companies use their likeness in advertisements. The bill was originally referred to the Senate Government Affairs Committee but was later recommitted to the Senate Judiciary Committee.
- House Bill 445 by Rep. Allen Treadaway of Morris was referred to a subcommittee of the House Judiciary Committee, a move that normally signals the end of a bill's journey. But many predict the bill, which establishes the crime of assault against a first responder and the crime of riot, will reemerge soon. Expect lengthy debate on this measure if it ever reaches the House floor.
- Senate Bill 265 by Sen. Rodger Smitherman of Birmingham passed out the Senate Judiciary Committee on Wednesday by a one-vote margin. The bill prohibits an employer from discriminating against an applicant or employee based on hairstyle. It is similar to, but more narrowly tailored than, House Bill 87, a bill introduced by Rep. Rolanda Hollis of Birmingham.
- House Bill 103 by Rep. Jamie Kiel of Russellville was approved by a Senate committee on Wednesday. The bill provides that the state cannot selectively choose which types of businesses or other entities can remain open during states of emergency.

Statistics

Through 14 legislative days, representatives and senators have introduced 876 bills – 541 in the House and 335 in the Senate – and 186 resolutions. As of this writing, 80 of those measures had been signed into law.

The Legislature returns next week for the 15th and 16th legislative days of the 2021 session. Legislators can meet for no more than 30 legislative days, and the session must adjourn on or before midnight on Monday, May 17th.

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