

2021 Legislative Update: Week 4

Overview

Legislators returned to Montgomery after a planned one-week hiatus ready for a busy, three-day week in the State House and prepared to take on two controversial subjects: gambling and medical marijuana. In the Senate at least, one of those items was pushed forward two weeks, while the other was approved in about ten minutes. This week also saw the long-awaited passage of Aniah's Law, the first shutdown filibuster of the session, and the advancement of numerous other bills of note.

Gambling Bill

On February 11, when the Legislature was last together, Sen. Del Marsh of Anniston brought his comprehensive gaming legislation, Senate Bill 214, up on the Senate floor. After limited debate, Marsh asked that the legislation be carried over until the Senate resumed proceedings this week. After Senators received a copy of a substitute version of the bill last Friday, many predicted that Senators would simply pick up the debate where they left off. But on Tuesday, Marsh announced that he would continue working on the bill and its companion bill, Senate Bill 215, for two additional weeks. When asked, Marsh said he believed he had the votes to pass the bill but wanted additional time to iron out important details. Many predict that some of the delay is related to Marsh's desire to fine-tune the number of casinos that would become operable under his proposal and where those casinos would be located. Whether this legislation ultimately passes is anyone's guess, and since it is a proposed constitutional amendment, a super-majority of legislative support is required for the proposal to make it to the ballot. But unlike past attempts at legislation of this type, Marsh does not have to convince enough legislators to support a gaming proposal. Rather, he must convince them to support the *same* gaming proposal. That's a tricky job, to be sure. But if anyone in the Legislature can do it, it's Marsh.

Medical Marijuana

Keen observers of the legislative process will tell you that the length of time a bill is debated does not always correlate to the importance or impact of the legislation itself. That truism was boldly on display on Wednesday, as Sen. Tim Melson of Florence ushered his medical cannabis legalization legislation, Senate Bill 46, through the upper chamber in near-record time. Even after two friendly amendments were added on the Senate floor, the bill was up for debate for a total of about ten minutes before 21 Senators voted to send the bill to the House. There are two important reasons why a bill that might seem so controversial was passed so easily. One, this is not the first time the Senate has considered this exact legislation, so proponents and opponents knew what the vote count would be and decided, or so it appears, that minds would not be changed by a lengthy floor debate. Two, conventional wisdom says that the real battle for this legislation's future will take place in the House of Representatives, where it has stalled for multiple years. So, again, the real battle for this bill is on the State House's 5th floor, where it will be managed by Rep. Mike Ball of Huntsville. For what it's worth, Ball, a former law enforcement officer, is no stranger to this type of legislation, having sponsored "Leni's Law," a bill to allow people with debilitating seizures to use cannabidiol, a derivative of cannabis, five years ago. Yet, the bill may face a slow path to the Governor's desk in the

lower chamber. As an example, consider that Speaker of the House Mac McCutcheon announced that the bill might be considered by two committees instead of one, an unusual move that, at the very least, demonstrates what may lie ahead for the legislation.

Aniah's Law Passes House

Numerous bills were well on their way to becoming law in 2020 before COVID shut the session down early. One of those bills was "Aniah's Law," a bill sponsored by Rep. Chip Brown of Hollinger's Island in honor of Aniah Blanchard. In 2019, the 19-year-old Blanchard was kidnapped and killed by a perpetrator who was out on bond even after being charged with kidnapping, robbery, and murder. Alabama law only allows those charged with capital murder to be denied bail. Brown's bill, House Bill 130, would allow a judge, after a hearing, to deny bail to perpetrators of 13 crimes, including kidnapping, rape, arson, and robbery. Brown's bill passed unanimously and now goes to the Senate. A second related bill, also sponsored by Brown, is the constitutional amendment that would ratify "Aniah's Law" into the state constitution. More than 90 members of the 105-member House signed onto these bills as cosponsors, a major show of bipartisan support.

First Shutdown Filibuster

Senators returned to the Senate chamber on Tuesday with an ambitious 24-bill Special Order Calendar. But any plans to move through the entire calendar were quickly altered thanks to a proposed amendment on a bill related to voting. Senate Bill 118, sponsored by Sen. Linda Coleman-Madison of Birmingham, would make the pathway easier for individuals with criminal convictions to have their voting rights restored. The bill also eliminated a requirement that an individual seeking voting rights restoration pay all fines, court costs, and fees before restoration is granted. During the debate, Sen. Sam Givhan of Huntsville offered an amendment that, among other things, restored the requirement that fines and fees be paid before restoration could be granted. This quickly caught the ire of several Senate Democrats, including Minority Leader Bobby Singleton of Greensboro and Sen. Rodger Smitherman of Birmingham. For the next two hours, Singleton and Smitherman led a voracious filibuster against Givhan's amendment. After indicating that they had no plans to relinquish the microphone, Majority Leader Greg Reed of Jasper was able to coax the body to adjourn for the day. Many of the bills remaining on Tuesday's calendar reappeared on a calendar two days later. Senate Bill 118, however, did not.

Bills of Note

Week four of the legislative session saw three days of activity on the House and Senate floors. In addition, it also saw a flurry of activity in legislative committees. A sample of the bills that advanced this week is below.

- House Bill 281, sponsored by House Speaker Pro Tempore Victor Gaston of Mobile, extends the existing Historic Rehabilitation Tax Credit from 2022 through 2027 and clarifies that a transferee is entitled to claim a refund of the tax credit. This legislation, which passed out of committee on Wednesday and out of the House on Thursday, not only ensures that this important credit program can continue but also reverses a harmful Department of Revenue ruling related to refunds claimed by transferees.
- Senate Bill 249, sponsored by Senate Majority Leader Clay Scofield of Guntersville, makes important clarifications to a 2019 law related to "call centers" that relocate outside of Alabama. The original bill heavily penalized businesses for relocating call center personnel without first notifying the state. Scofield's bill, which passed out of committee on Wednesday and out of the Senate on Thursday, better aligns the law with the original intent of the Legislature.
- House Bill 39, sponsored by Rep. Laura Hall of Huntsville, advanced out of a House committee on Wednesday. The bill provides for no-excuse absentee voting in Alabama and is one of dozens of

voting- and election-related bills introduced so far this session. Secretary of State John Merrill has publicly indicated his support for Hall's bill.

- House Bill 391, sponsored by Rep. Scott Stadhagen of Hartselle, also passed out of committee on Wednesday. This bill mandates that public school students can only compete in athletic competitions aligning with the gender on their birth certificate.
- House Bill 1, sponsored by Rep. Wes Allen of Troy, prohibits gender change therapy for minors, with certain exceptions. The bill passed out of the Judiciary Committee on Wednesday.

Statistics

Through nine legislative days, Representatives and Senators have introduced 745 bills – 470 in the House and 275 in the Senate – and 125 resolutions. As of this writing, 20 have been signed into law.

The Legislature returns for its tenth legislative day next Tuesday. The schedule released by legislative leadership calls for another three-day week, followed by back-to-back two-day weeks and then a Spring Break week. The session can last no more than 30 legislative days and must end on or before midnight on Monday, May 17.

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