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CRR EXTRAS

Friday, May 02, 2008

Only Three Legislative Days Remain to Stop an \$82 Million Business Tax Increase;

Tell Your Senator to Vote 'No';

Thank Representatives Who Stood with Business

Three quarters of the Alabama House of Representatives voted Wednesday to balance the Alabama education budget on the backs of Alabama businesses. The 75-29 vote for a precedent-setting, retroactive corporate income tax increase of \$82 million sends a "chilling message to businesses," Rep. Greg Canfield, R-Vestavia Hills, told his colleagues from the House floor.

Pro-business legislators held off the vote for four full legislative days, but in the end all but a quarter of the House members ignored pleas from Alabama retailers and other businesses and approved the massive tax increase. **Thanks to everyone who called their representative and asked them to vote "No" and thanks to the 29 stalwart representatives who stood with business.**



HB 350 by Rep. Richard Lindsey, D-Centre, now heads to the Senate Finance and Taxation-Education Committee, which is expected to meet at 11 a.m. Tuesday. Sen. Hank Sanders, D-Selma, who chairs that committee, has said he will urge his committee to approve the \$6.3 billion budget as approved Wednesday by the House. That budget depends on the \$82 million in taxes raised under HB 350.

Alabama retailers can turn the tide in the three legislative days remaining in the 2008 regular session. **Please call your senator at their home or business this weekend and Monday and urge them to vote "NO" on HB 350.**

>> [Phone numbers of senators at their homes, businesses and State House offices](#)

BILLS

- [HB 32](#)
- [HB 93](#)
- [HB 144](#)
- [HB 274](#)
- [HB 308](#)
- [HB 350](#)
- [HB 455](#)
- [HB 576](#)
- [HB 663](#)
- [SB 221](#)
- [SB 229](#)
- [SB 243](#)
- [SB 300](#)
- [SB 334](#)
- [SB 362](#)
- [SB 399](#)
- [SB 431](#)

IN THE NEWS

- [Senate expected to make few changes in education budget](#)
- [Main source of public education revenue up](#)
- [House passes \\$6.3 billion education budget](#)
- [High catfish feed prices leave many reeling](#)
- [Bill to end state sales tax on groceries stalls in Senate](#)
- [Alabama Senate votes to exempt federal tax rebates from state income](#)

Tell your senator that this legislation would deal another costly blow to companies already struggling through a difficult economic downturn, while setting damaging tax policy certain to weaken economic development in Alabama.

Tell your senator that retroactive tax policy is toxic tax policy.

HB 350 applies to "all open tax years," which means the Alabama Department of Revenue can go back as far as 2001 to audit ANY corporate taxpayer that makes royalty or interest payments to a related company, even those who long ago thought they settled their tax bills. If this legislation becomes law, every time the budgets get tight due to economic hard times, the Alabama Legislature will make another tax retroactive. If lawmakers aren't affecting your tax return with this legislation, **be aware that the next past due tax bill they send could be to YOUR business.**

Tell your senator that if the Alabama Legislature decides it can redefine tax policy six years into the past, Alabama no longer will be able to attract businesses, keep businesses or grow businesses.

Tell your senator that **HB 350 attempts to preempt an Alabama Supreme Court ruling**. Even House Speaker Pro Tem Demetrius Newton, D-Birmingham, admitted during House debate that the tax issue covered in this legislation is "*in the breast of the court.*" Alabama's high court currently is considering the appeal of a February Court of Civil Appeals ruling requiring a company that makes and markets jeans to "add back" royalty payments made to a related intangible management company. That decision is expected soon and lawmakers should wait for it before making further law, which more than likely will be challenged again.

Tell your senator that HB 359 creates double taxation. The bill disallows the dividend-paid deduction for a captive REIT, as well as disallowing the dividend-received deduction for the corporations receiving the dividend from the captive REIT. Disallowing both doubles the amount of tax to be paid.

[>> Read a more detailed explanation of the HB 350 approved by the Alabama House of Representatives](#)

House Bill Links Healthcare Coverage Deduction to Tax Hike

On a 92-6 vote, the House also approved Wednesday a substitute version of **HB 144**, by Jay Love, R-Montgomery, which provides tax credits to certain small business and certain of their employees for health insurance coverage. The House linked HB 350 and HB 144 so that if one fails, they both fail.

- [tax](#)
- [Public smoking ban passes Senate](#)
- [House rejects constitution rewrite](#)

For more stories concerning legislative action and news of interest to retailers, go to [In the News](#)

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LEGISLATIVE CONTACTS

To contact members of the Alabama Legislature:

WRITE:

Alabama State House
11 South Union Street
Montgomery, AL 36130

CALL:

HOUSE: (334) 242-7600
SENATE: (334) 242-7800

E-MAIL:

Most representatives can be reached through the House e-mail system by using the following format:
[firstname.lastname@alhouse.org](#).

Those without e-mail addresses can be reached through the general e-mail address:

house3@alhouse.org

There is no general e-mail address for senators. [Click here](#) for a roster of the state senators with their complete contact

Under the new HB 144, businesses with 25 or fewer employees and employees of those businesses who earn \$50,000 or less annually would be able to deduct 20 percent more than they currently do for health insurance payments, beginning with the 2009 tax year. If the education trust fund grows six percent in any two years between 2010 and 2014 that deduction first grows to 35 percent and then to 50 percent more than the current deduction allowed.

It is highly unlikely the education trust fund will grow six percent twice in the next six years. Although the fund did see double-digit growth in recent boom years, the average annual growth prior to that boom was 5.5 percent. Education revenues are growing at 4.2 percent so far this year, which is still below the 5 percent the Legislature projected.

Currently, businesses can deduct 100 percent of what they pay for employees' health insurance from their state income tax, while individual taxpayers can deduct the amount they pay toward their health insurance from their individual income tax. Love's bill originally doubled that deduction.

While the focus of our fight against this dangerous tax increase is on the Senate, special thanks goes to the representatives who voted against HB 350 and valiantly offered amendments or motions on business' behalf, either to make the legislation workable or to prolong the debate.

ARA is grateful for all their efforts.

The 29 representatives (* = offered amendment or motion during HB 350 debate Wednesday) **who voted for business** by voting against this legislation were: [Mike Ball](#)*, R-Huntsville; [Jim Barton](#)*, R-Mobile; [DuWayne Bridges](#), R-Valley; [Greg Canfield](#)*, R-Vestavia Hills; [Spencer Collier](#), R-Irvington; [Randy Davis](#), R-Daphne; [Paul DeMarco](#)*, R-Homewood; [Owen Drake](#), R-Leeds; [Joe Faust](#), R-Fairhope; [Mac Gipson](#)*, R-Prattville; [Chad Fincher](#)*, R-Semmes; [Victor Gaston](#), R-Mobile; [David Grimes](#), R-Montgomery; [Mickey Hammon](#), R-Decatur; [Mike Hill](#), R-Columbiana; [Mike Hubbard](#), R-Auburn; [Jamie Ison](#)*, R-Mobile; [Benjamin Lewis](#), R-Dothan; [Jay Love](#), R-Montgomery; [Barry Mask](#)*, R-Wetumpka; [Mary Sue McClurkin](#), R-Indian Springs; [Steve McMillan](#), R-Bay Minette; [Joseph Mitchell](#), D-Mobile; [Arthur Payne](#)*, R-Trussville; [Howard Sanderford](#), R-Huntsville; [Cam Ward](#), R-Alabaster; [Randy Wood](#), R-Anniston; [Jack Williams](#)*, R-Birmingham, and [Greg Wren](#), R-Montgomery.

>> [View the complete House roll call vote on HB 350](#)

>> **Other News**

information.

LINKS GO TO CONTACT INFO:

The link to each lawmaker mentioned in this publication goes to their individual websites, which have contact information. You can also find out whose legislative district you live or work in under [Find Your Lawmaker](#) in the [Political Affairs](#) section of alabamaretail.org.



For committee assignments and clerk contacts for the Alabama Legislature, see [ARA's 2011 Legislative Roster](#).

BENEFIT FROM THE VALUE

Now, Even More Benefits from ARA



Your Business Can Save Thousands

ARA constantly strives to increase the Value its members received from membership. Many members have been using our low-cost workers' comp program for years, but were asking for more.

UNNECESSARY MANDATES

Senate Approves Country of Origin for All Fish; House to Consider Catfish-Only Labeling Tuesday

If you are an owner or manager of an Alabama restaurant, cafeteria, grocery deli and other food service establishment who objects to labeling the fish you serve or sell with its country, or state, of origin, you need to **call your representative NOW** .



Once the Senate legislative logjam broke this week, the Senate approved **[SB 221](#)** by Sen. Jim Preuitt, D-Talladega, on a vote of 28-0.

Under Preuitt's bill, menus or placards would have to label all fish as domestic or imported and the following disclaimer would be required as well: "Under Alabama law, the consumer has the right to know, upon request to the food service establishment, the country of origin of imported farm-raised or wild fish." The Alabama Department of Public Health would administer this legislation.

Preuitt's bill could be considered by the House Agriculture and Forestry Committee next week, although ARA representatives have asked the chairman, Rep. Thomas E. Jackson, D-Thomasville, not to place the bill before the committee for consideration. **ARA has led the fight to keep mandated country of origin labeling from being considered for the past six years. ARA continues to oppose mandatory country of origin labeling, or COOL, at the state level on products such as seafood, meat, fruits, vegetables and peanuts.**

Meanwhile, **[HB 576](#)** by Rep. A.J. McCampbell, D-Linden, which requires labeling for catfish only, is on Tuesday's calendar in the Alabama House of Representatives.

McCampbell's legislation requires all food service establishments to inform consumers whether the catfish being served or sold is: farm-raised catfish or river or lake catfish. You must also identify the state or country of origin in specific size letters on a menu, product or placard label. Additionally, the bill spells out a five-tiered enforcement that ranges from a written warning to a \$1,000 fine and revocation of the restaurant or other food service business' food safety permit.

Thursday, the Alabama Senate voted to discuss the companion to this legislation, **[SB 399](#)** by Sen. Bobby

In January, we announced more savings. ARA members now have access to:

Cost-Saving Credit Card Processing:

Through a partnership with Huntsville-based **CHECKredi**, ARA members get rates normally reserved for only the largest stores.

Discounted Inbound and Outbound Shipping:

Through our arrangement with **PartnerShip** ARA members can save up to 27% on FedEx services and up to 70% on other shipping needs.

Budget Friendly Email Marketing:

Constant Contact brings ARA members cutting edge e-mail marketing technology for as low as \$15 a month; members save up to 25%

[Find Out More Today](#)

IMPORTANT EVENT THIS WEEK

WHAT: **Birmingham Business Leadership Exchange**
WHEN: **6 p.m. Wednesday, April 6**

WHERE: Regions Center Upper Lobby Auditorium, 1900 5th Avenue North

Complimentary parking available at Regions Center deck via 19th St. North

The Speaker's Commission on Job Creation is partnering with the Birmingham Business Alliance to invite business owners of companies across the industrial spectrum to attend a "Business Leadership Exchange," and share their ideas about how to improve the business climate in the state. If you have any questions, please **contact the**

Singleton, D-Greensboro, but questions raised by Sen. Larry Means, D-Attalla, caused Singleton to ask that the bill be carried over. Since the Senate adjourned Thursday without voting on the bill, it is effectively dead as it will take unanimous consent to consider Singleton's bill during the final three days of the 2008 regular session. However, the issue could be back before the Senate, if the House approves McCampbell's bill.

Under HB 576, a business can choose whether to include the country of origin for catfish on the menu, a sign or a tabletop display. It requires that country of origin labeling on a menu be done in the same font size as the catfish offering. It sets the minimum size for any signage at 250 square inches with at least 1-inch tall type, and it specifies that tabletop displays of at least 30 square inches be placed on each table. Only one of these three methods of labeling would be required under this bill. The Alabama Catfish Producers has agreed to print and provide posters and tabletop displays. The Alabama Restaurant Association also has agreed to this bill. **ARA did not participate in the agreement.**

If the Alabama Commissioner of Agriculture and Industries finds a food service business has mislabeled or failed to comply under McCampbell's bill, it will receive a written warning on first offense, a \$100 fine on second offense, \$250 on the third offense, \$500 on the fourth offense, culminating with a \$1,000 fine on the fifth offense within a two-year period and the possible revocation of its food safety permit.

Federal law already requires the labeling of catfish and other seafood in grocery stores and fish markets, although the labels are different than those required under these proposed laws. SB 221 and HB 576 add restaurants to the labeling requirement.

office of House Speaker Mike Hubbard at 334-242-7668. If you are unable to come to the Birmingham exchange but would like to submit ideas and recommendations, you may [email them to Alabama Jobs Commission](mailto:AlabamaJobsCommission)

or join the conversation on Facebook at

facebook.com/speakersjobscommission

MORE TAX NEWS

Senate Not Ready to Talk about Ending Food Sales Tax and Income Tax Deduction for Federal Income Tax Paid

The Alabama Senate fell two votes shy of the votes needed Wednesday to consider [SB 431](#) by Sen. Hank Sanders, D-Selma, a constitutional amendment that would drop the state sales tax on food items as defined by the federal food stamp program and end the deduction Alabama taxpayers take for the federal income tax they pay.



Sanders bill is identical to [HB 274](#) by Rep. John Knight, D-Montgomery, which the House approved April 15.

Either the House or the Senate bill could be considered on the Senate floor in the remaining three legislative days of the 2008 regular session, but it would take 21 votes in the Senate for final passage; then the governor would have to sign it; and it would have to go before voters in the November general election.

One group that would be hit hard by the loss of the federal income tax paid deduction is the state's more than 200,000 Subchapter S corporations, partnerships and limited liability companies. The income from these small to mid-sized businesses is taxed to the individual owners. They would no longer be able to use the deduction for the federal income taxes they pay.

The proposed constitutional amendment also raises the threshold at which individuals start paying state income taxes by raising the standard deduction and personal and dependent exemptions.

ARA LEGISLATIVE AGENDA IN ACTION

Senate Approves ARA-Backed Version of Tax-Free Rebates

Federal tax rebates began to appear in taxpayers' bank accounts this week, and the Alabama Senate approved an ARA-supported bill that would exempt those rebates from Alabama income taxes.

Wednesday, the Senate voted 32 to 0 for [SB 362](#) by Sen. Parker Griffith, D-Huntsville, which waives the state income tax on the federal rebates. Unlike the House version of the legislation, [HB 455](#) by Rep. Terry Spicer, D-Elba, the Senate bill leaves intact the bonus depreciation features for businesses included in the federal Economic Stimulus Act of 2008.

However, some senators questioned the legality of using the Senate bill as the vehicle for this legislation. Alabama's Constitution says "all bills for raising revenue shall originate in the House of Representatives," and the courts have interpreted that to mean bills that increase or decrease revenue. The Legislative Fiscal Office has estimated Griffith's bill will decrease the state's Education Trust Fund by \$57 million.

ARA contends that if both businesses and individual taxpayers are given full benefit from the federal stimulus package, then Alabama actually could gain revenue because

of increased spending from individual taxpayers and increased investment from businesses.

Griffith's bill has been assigned to the House Education Appropriations Committee. Spicer's bill awaits action by the full House, and then would need to move onto the Senate.

>> [Read a detailed explanation of the House bill's provisions](#)

Up to House to Move ARA-Backed Late Fee Increase

At the request of Sen. Quentin Ross, D-Montgomery, the Alabama Senate on Thursday carried over [SB 334](#) by Sen. Bobby Denton, D-Muscle Shoals, which calls for a modest \$8 increase in late fees for delinquent consumer credit payments. It will take unanimous consent to consider Denton's bill during the final three days of the 2008 regular session in the Senate.

However, the House of Representatives could still consider the House companion, [HB 32](#) by Rep. Lesley Vance, D-Phenix City, and sent it on the Senate. HB 32 has been scheduled for debate in the House, but if it doesn't receive a vote Tuesday, it will be dead.

Currently, a creditor can charge \$10 or five percent of the scheduled payment, whichever is greater up to a cap of \$100, when a credit payment is 10 days late. That has been the case since 1997, when the Alabama Legislature increased the late charge from \$5. Obviously, the cost to a creditor for collecting delinquent payments has increased in the past 10 years, while the value of the late fee has decreased to \$7.10 based on inflation. ARA is asking for an increase to \$18, which is still 38 percent to 54 percent of what out-of-state banks and credit-card companies can assess and can assess sooner.

[This is the second year this legislation has been part of the ARA's Legislative Agenda.](#)

MEDICAID

Medicaid Recovery Bill Headed to Final Passage

Thursday, the House Health Committee approved [SB 300](#) by Sen. Linda Coleman, D-Birmingham, which provides a mechanism for the Alabama Medicaid Agency to recoup payments made to a provider if the payment was made for a person already covered by a health plan. The bill is now in line for final approval by the full House.

This legislation requires each health insurer and health benefit plan to provide information to the Medicaid Agency concerning each insured and dependent covered by the insurer or health benefit plan. It also authorizes civil penalties for violations. The federal government is mandating that all states pass some form of this legislation.

The House companion, [HB 93](#) by Rep. Ron Johnson, R-Sylacauga, also is ready for House consideration.

SMOKING/TOBACCO

Full Senate and a House Committee OK Smoking Ban Bills

By a vote of 28-3 Wednesday, the Alabama Senate approved [SB 229](#), sponsored by Sen. Vivian Davis Figures, D-Mobile, which would ban smoking in most public places and workplaces in Alabama.



The Senate bill now goes to the House Government Operations Committee, which also approved a similar ban Wednesday. [HB 663](#) by Rep. Mary Sue McClurkin, R-Indian Springs, is ready for consideration by the full House.

Figures' bill exempts from the smoking ban bars not located within a restaurant and in which "*servicing of food is only incidental*" to alcoholic beverage service. Sen. Trip Pittman, R-Daphne, offered four different amendments that would have excluded more small businesses from the smoking ban, but Figures successfully moved to table all of his amendments.

Figures' legislation would supersede local smoking ordinances. The legislation carries a \$100 fine for first-time violators; a \$200 fine for a second offense; and \$500 for the third violation and each subsequent violation in a one-year period. Every day a business is in violation is a separate violation.

CONSTITUTIONAL REFORM

Constitutional Convention Fails to Get House Debate

Not enough House members wanted to bring up a bill Thursday that would allow voters to decide during the 2010 primaries if they want to call a convention to write a new constitution.

The House voted 46-44 for [HB 308](#) by House Speaker Pro

Tem Demetrius Newton, D-Birmingham, short of the three-fifths vote needed to bring it up for consideration. The Senate companion, **SB 243** by Sen. Ted Little, D-Auburn, awaits a vote by the full Senate.

ARA favors amendment-by-amendment constitutional reform, rather than the more politically charged constitutional convention method of revision.

NEXT LEGISLATIVE DAY

2009 Session Begins in February

Another Summer Special Session Possible

Lawmakers will return for the **first legislative meeting day of the 2009 regular session at noon Tuesday, Feb. 3, 2009** .

However, the governor could call lawmakers back for another special session later this summer.

The *Capitol Retail Report* is another **Benefit from the Value** of Alabama Retail Association membership. For more benefits, go to www.alabamaretail.org