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CRR EXTRAS

Friday, April 10, 2009

TAXES

Senate OKs Unemployment Stimulus Resolution

Stop Counterproductive, Job-Killing, Tax-Increasing Legislation Now !

The Alabama Senate is ready to send Gov. Bob Riley a resolution asserting the Legislature's intention to accept ALL money available from the federal stimulus package, including temporary funds for the permanent expansion of unemployment compensation benefits. A conference committee of Senate and House members approved the resolution Thursday morning on a 6-2 vote, the Senate then concurred with the conference report by **a one-vote margin (15-14)**. The House adjourned Thursday without acting on the conference committee report, delaying final action on the resolution until at least next week.



The conference committee recommended and the Senate approved **SJR 86** by **Sen. Rodger Smitherman, D-Birmingham**, the Senate version of the resolution, which calls for accepting all stimulus funds. The scope of the House resolution, **HJR 454** by **Rep. Mary Moore, D-Birmingham**, was limited to the unemployment compensation money. Gov. Bob Riley repeatedly has said he would turn down any stimulus funds tied to expanding benefits, which indicates he would veto this resolution, should it reach his desk.

The resolution can make no change to unemployment compensation in Alabama. Legislation, such as **SB 460**, also by Smitherman, must be approved before any changes would be made. That bill **could be considered by the Senate at any time**.

ARA and the Business Associations' Tax Coalition, 30 business and trade associations committed to responsible tax policy, oppose the resolution and the pending legislation, which call for the permanent expansion of unemployment compensation benefits in Alabama in

TOP ISSUES

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BILLS

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exchange for temporary federal funding. This legislation is counterproductive and will only exacerbate the state's struggling economy and cost jobs by piling on an additional \$22 million annually in unemployment compensation taxes.

CALL YOUR SENATOR and YOUR REPRESENTATIVE

and explain that accepting this stimulus money will mean costly unemployment compensation tax hikes that will hit Alabama employers immediately and will continue for years to come.

Meanwhile, BATC this week delivered information to the entire Legislature outlining its position on SB 460. Members of the media received the same information.

[>> Use this BATC position paper to help you discuss why retailers oppose this legislation](#)

In order for Alabama to accept the \$100 million in available federal funds, Congress has mandated the Alabama Legislature approve legislation that would expand unemployment benefits to about 20,000 Alabamians who currently don't qualify for unemployment, immediately **costing Alabama businesses \$22 million more EACH YEAR in unemployment taxes**. Should this legislation pass, **the increased charges will start when employers receive their first quarter 2010 unemployment compensation tax bills in January.**

SB 460 extends benefits to cover workers who have been in the work force at least two out of the four most recent quarters, those seeking part-time work (at least 20 hours a week) rather than full-time jobs, people in job-training programs who have exhausted their normal benefits, and workers who leave their jobs because of domestic violence, all conditions set by Congress for accepting the stimulus money.

Ironically, a joint resolution approved by the Legislature and signed by the governor in mid-March with little to no publicity urges Congress to repeal the conditional provisions attached to federal stimulus funds related to unemployment compensation. Smitherman also was the sponsor of [SJR 68](#), which asks that federal lawmakers "immediately amend the American Recovery and Reinvestment Act of 2009 to allow states to accept unemployment compensation benefits unconditionally." That resolution also asks Congress to repeal the provisions that require states to change their unemployment compensation laws.

Employers will pay a higher unemployment tax rate next year whether SB 460 passes or not.

IN THE NEWS

- [Alabama businesses to pay higher unemployment taxes](#)
- [Businesses to pay more for unemployment tax](#)
- [Montgomery resident arrested and convicted of unemployment](#)
- [Alabama's tax collections down 3.6% from last year](#)
- [Alabama House Republicans roll out option to food tax reduction plan](#)
- [Senate committee passes food tax bill](#)
- [GOP House members targeted for grocery tax votes](#)
- [Put repeal of sales taxes on groceries on the shelf](#)
- [Alabama House deadlocked due to protests by black legislators, GOP](#)
- [Filibuster threatens increase as session nears May 18 end](#)
- [Retailers: Proposed data breach bill creates problems for business owners](#)
- [PCI standards 'elaborate patch:' retailers should not be required to keep credit card numbers](#)
- [Lincoln: A clear 'No' on card check](#)
- [Mobile chamber and 179 others oppose card check bill](#)
- [Shoe tax repeal would wave consumers \\$800 million](#)

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

Every trust fund dollar paid out for benefits in one year *MUST* be repaid by employers in subsequent years. Consequently, because of an automatic trigger built into state law to keep the Unemployment Compensation Trust Fund solvent, **unemployment taxes for businesses will increase from almost 16 percent to a high of 56 percent PER EMPLOYEE in 2010 because of the tremendous strain the current level of unemployment has placed on the Fund.**

Join forces with other business leaders in your area to visit or call your lawmakers to let them know **retailers SIMPLY CANT AFFORD for the Legislature to pile on more unemployment compensation expenses onto your tax bill and the tax bills of other hardworking employers in your community.**

>> Other News

MORE TAX NEWS

Unitary Combined Reporting Idea Resurfaces

McLaughlin Revises, Reintroduces Legislation

[Rep. Jeff McLaughlin, D-Guntersville](#), this week introduced [HB 865](#), which would require a group of two or more corporations to file a "combined" income tax return that includes the income and apportionment factors of all corporations that are members of a "unitary" business - whether or not they do business in or otherwise have nexus with Alabama. The bill would **repeal Alabama's existing consolidated return regime** for all tax years beginning **after Dec. 31**. The bill does *not* repeal the controversial add-back statute.

McLaughlin also attempted to change the way Alabama taxes multistate companies in 2008.

The bill largely adopts the broad Multistate Tax Commission definition of "*unitary*" business, contained in its model combined reporting act, and provides that "*unitary*" should be construed to the broadest extent possible under the U.S. Constitution. The bill provides a so-called "*water's-edge election*," which would presumably only include members with U.S. operations in the group, but leaves much of the detail of the election to be defined by the Alabama Department of Revenue through regulation.

Despite requiring a combined report, the bill places several restrictions on the sharing of tax attributes among members of a combined group. For example, net operating losses may only be carried forward and deducted against the Alabama income of the corporation that generated the net operating

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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 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

loss (similar to the separate return limitation year rule). Additionally, tax credits (such as Alabama's capital credit) that are not fully utilized by one member of the group may not be used by another member of the group or applied against the total income of the combined group. Similar to McLaughlin's unitary combined reporting proposal in 2008, HB 865 strives to include all income of the members in the tax base while keeping losses and other tax attributes trapped within the individual corporate members. **This will deter Alabama's ability to attract new businesses; and those that have chosen to locate in our state due in part to the valuable Capital Credits Program may now find themselves paying Alabama income tax on the profits of related companies that are not even located here.**

Republicans Advance Alternatives to Grocery Sales Tax Elimination

Republican alternatives to the Democratic proposal for removing the state's sales tax on groceries had varying degrees of success this week with one receiving committee approval, another being introduced and a third going no where.



Tuesday, on a 5-1 vote, the Senate Governmental Affairs Committee approved **SB 450**, by **Sen. Arthur Orr, R-Decatur**, which would give cities and counties the option of eliminating local sales tax on food. Orr's bill now goes to the full Senate. It would give cities and counties the option of removing all or a portion of the tax. Currently, state law requires a uniform local sales tax rate. Orr told the committee his bill would allow cities and counties to define food at the local level, and to "leave out Twinkies, chewing gum, candies and things that do qualify under the food stamp definition. They could define groceries certainly more narrowly to bread, eggs, milk, produce, etc.," he said.

Varying legal definitions of food from jurisdiction to jurisdiction along with varying tax rates for that food would be problematic for retailers.

Meanwhile, **Rep. DuWayne Bridges, R-Valley**, introduced **HB 862**, which would give a groceries tax credit of \$75 per person to families with adjusted gross incomes of less than \$15,000. A family of four at that level would receive a yearly tax rebate of \$300. The proposal would give a tax credit of \$65 per person in families with adjusted gross incomes between \$15,000 and \$22,000. A family of four at that level would

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. 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.

receive an annual tax rebate of \$260.

People who qualify for the tax credit would receive a rebate at the end of the year or adjust their withholding to receive an immediate benefit. People who receive food stamps would be excluded from applying for the tax credit.

Bridges' proposal, which received the endorsement of the House Republican Caucus, has been assigned to the House Education Appropriations Committee.

Republicans have three times blocked consideration of [HB 116](#) by [Rep. John Knight, D-Montgomery](#), which would remove the state portion of sales tax from groceries, excluding candy and soft drinks, and limit the exemption for federal income taxes paid. This week, the House Black Caucus and other Democrats used delaying tactics to slow consideration of most bills in the lower chamber in protest of the failure of the House to consider Knight's bill. The Senate has similar legislation in line for consideration, [SB 115](#) by [Sen. Hank Sanders, D-Selma](#).

Another Senate bill, [SB 377](#) by [Sen. Scott Beason, R-Gardendale](#), would gradually eliminate the state sales tax on food by 1 percent at the start of each fiscal year after the education fund grows by 3 percent. It would also prohibit cities and counties from raising their sales and use taxes on food. It has been pending in the Senate Finance and Taxation Education Committee since it was introduced Feb. 12.

DATA SECURITY

ARA Testifies Against Retailer-Punitive Data Breach Bill



The House Government Operations and Senate Finance and Taxation General Fund committees this week both held public hearings, but did not vote on [HB 797](#) by [Rep. Tammy Irons, D-Florence](#), (pictured at left) and [SB 545](#) by [Sen. Roger Bedford, D-Russellville](#). Either bill could come before their respective committees at the call of the chairmen.

[Rep. Oliver Robinson, D-Birmingham](#), chairs House Government Operations and Sen. Bedford chairs Senate Finance and Taxation General Fund.

Iron's and Bedford's legislation create new, private causes of actions a financial institution can use against retailers responsible for a security breach.

Credit union members in favor of the legislation lined the Alabama State House hallways, wearing "Stop Identity Theft"

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 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](#)

or join the conversation on Facebook at

[facebook.com/](https://www.facebook.com/)

buttons and six proponents from that group testified for the legislation during each public hearing.

Alabama Retail Association Vice President Alison Wingate (pictured at right during committee meeting) testified in opposition on behalf of all of the state's retailers. **ARA opposes this**



legislation because it creates new causes of action against retailers and attempts to bring retailers into disputes that really are between the financial institutions and the credit-card companies. ARA opposed similar legislation for the same reasons in last year's regular and special sessions. Only one other state, Minnesota, has data breach legislation that creates a similar cause of action.

The credit union industry is pushing this legislation in an attempt to make a state issue out of a matter better left to federal control.

Wingate pointed out during the hearing that of 89 major data breaches in the nation in 2009, only one retailer and one restaurant were involved. Breaches of data stored by universities and schools account for the largest number of breaches so far this year at 24, governmental entities came in a close second at 22. Under state law, public schools and universities as well as the government can't be sued. This legislation specifically excludes financial institutions from being sued. Yet, this legislation **HOLDS A RETAILER LIABLE** to a financial institution for the financial institution's costs.

Last week, the U.S. House Homeland Security Committee's Subcommittee on Emerging Threats, Cybersecurity, and Science and Technology held a hearing on whether data security standards mandated by the Payment Card Industry Security Standards Council run by Visa, MasterCard and other major credit card companies reduce the theft of credit card data. The PCI standards include more than 200 requirements intended to protect consumers against credit card fraud committed by criminals who hack into computer systems. *"The council is set up so that the credit card companies and banks retain all power over the ultimate standards, fines and anything else connected to PCI. Because of this, the standards do not represent what is the best security, but rather what is best for the credit card companies and their financial institution partners,"* National Retail Federation Senior Vice President and Chief Information Officer David Hogan testified at last week's federal hearing. In two of the most-publicized data breaches last year, the Hannaford Brothers supermarket chain and the Heartland Payments Systems Inc. credit card processing firm had been certified as PCI compliant.

HB 797 and SB 545 would make it state law for retailers to comply with PCI standards. **Please let [ARA Vice President Alison Wingate](#) know if you would be comfortable with a state law mandating PCI compliance.**



Rep. Lea Fite (pictured at right), whose business **Discount Foods Inc.** has been **an ARA member since 2006**, pointed out that retailers pay credit-card companies two percent for each credit-card

transaction through what is known as interchange fees. "*We are already paying*," said Fite. He suggested any retailers who don't comply with credit and debit card security standards, no longer be allowed to accept the cards. The proponents admitted that would be up to the credit-card companies.

TOBACCO

Bill: Retailers Must Post 'Prove Age to Buy Tobacco' Signs

On Wednesday, the House Judiciary Committee approved legislation requiring retailers who sell tobacco products to post a sign that states that Alabama law prohibits those younger than 19 from purchasing tobacco and that proof of age will be required.

HB 391 by [Rep. Laura Hall, D-Huntsville](#), also clarifies the definition of self-service displays to include any open display accessible by the public. Locked cases are not self service. Tobacco specialty stores, defined as those deriving 75 percent or more of revenue from tobacco or tobacco products, are exempted from the self-service display restrictions. This bill now awaits action by the full House of Representatives. The Senate Judiciary Committee already has approved the Senate companion **SB 113** by [Sen. Larry Means, D-Attalla](#). It awaits action by the Senate. **ARA is monitoring this legislation.**

INTERIOR DESIGN

House Panel Approves New Regulatory Body for Interior Design

Wednesday, the House Boards and Commissions Committee approved **HB 491** by [Rep. Marcel Black, D-Tuscumbia](#), which creates a new licensing board for the interior design profession. The Alabama Interior Design Registration Act of 2009 requires that those wishing to call themselves licensed or registered interior designers meet

criteria set by and approval of the Alabama Board for Registered Interior Designers, which this bill creates. This board would have no authority over those not claiming to be licensed or registered interior designers. The bill awaits action by the full House of Representatives.

ARA is monitoring this bill . If you have concerns about how this bill would affect your business, please contact [ARA Vice President Alison Wingate](#).

NEXT LEGISLATIVE DAY

2010 SESSION BEGINS IN JANUARY

Law makers will return for the first legislative meeting day of the 2010 regular session at noon **Tuesday, Jan. 12, 2010**. ARA will keep you informed should the governor call law makers back for a special session between now and then.

FEDERAL

Senate Card-Check Supporters Shrinking; ARA Joins Alliance

Another senator has backed away from the dangerous card-check legislation now before Congress.



[Sen. Blanche L. Lincoln, D-Ark.](#), told the Little Rock Political Animals Club on Monday afternoon that she couldn't support the Employee Free Choice Act (EFCA). She previously supported the bill.

Lincoln's backing would be needed for the legislation to get a filibuster-proof 60 votes. Labor allies need 60 votes (out of 100 senators) to bring this dangerous legislation up for a final vote - a vote called "*cloture*" on the "*motion to proceed*." While approving cloture requires 60 votes, adopting legislation only requires 51 votes (a simple majority). EFCA supporters are claiming that they currently have 58 Democratic senators prepared to vote yes on cloture, far more than the 51 needed to actually pass the bill! A vote for cloture is ultimately a vote to enact the Employee Free Choice Act into law!

U.S. senators are back in their home states through April 20. If you encounter Alabama Sens. Richard Shelby and Jeff Sessions thank them for opposing [S. 560](#), organized labor's attempt to eliminate secret ballot elections in union organizing campaigns and to force non-negotiated union contracts on

employers and employees. Encourage them to continue to oppose this legislation and to vote "NO" on cloture.

>> [Sample Letter Opposing Employee Free Choice Act](#)

Labor leaders have indicated that they plan to aggressively pursue organizing campaigns in retail establishments if the Employee Free Choice Act becomes law.

Defeat of the Employee Free Choice Act, more aptly known as the card-check bill, **is the Alabama Retail Association's No. 1 federal legislative goal. Last week, ARA joined the Alabama Alliance of Businesses Against EFCA, a group of Alabama-specific associations opposed to this legislation.**

In addition to ARA, the Alliance includes the Associated Builders and Contractors of Alabama, Associated General Contractors of Alabama, Business Council of Alabama, National Federation of Independent Business, Economic Development Association of Alabama, Automotive Aftermarket Association Southeast, Alabama Concrete Industries Association and American Subcontractors Association.

Senator Introduces Shoe Tax Repeal

[U.S. Sen. John Ensign, R-Nev.](#), introduced [S. 730](#), the Affordable Footwear Act, on March 26. This legislation would eliminate tariffs on about 60 percent of shoes imported into the United States, or nearly 1.5 billion pairs annually. It would apply to low-cost men's, women's and children's footwear ranging from sneakers to high heels. With the market for low-cost shoes being highly competitive, most of the savings would be passed on to consumers.

Representative Proposes FDA Regulate Tobacco Products

The U.S. House of Representatives voted 298-122 last week for [H.R. 1256](#) by [Rep. Henry Waxman, D-Calif.](#), which authorizes the Food and Drug Administration to regulate, but not ban, cigarettes and other tobacco products. The new authority would allow the FDA to make tobacco product ingredients public, ban flavoring and prohibit marketing campaigns.

[Sen. Edward Kennedy, D-Mass.](#), plans to introduce his version of the bill after Congress returns from its April recess. An alternate bill, offered by [Rep. Steve Buyer, R-Ind.](#), would leave the FDA out and create a different agency within the Health and Human Services Department. Buyer's proposal

failed on a 284-142 vote.

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