



May 18, 2012

Legislature Approves Taxpayers' Bill of Rights II

Up to Governor If Independent Tax Court Becomes Law

Landmark legislation to centralize Alabama's tax appeal process and make that process independent of the taxing governments is on Gov. Robert Bentley's desk.

For the ARA-supported Alabama Taxpayers' Bill of Rights II to become law, the governor must sign it by the end of next week. [Send an email to Gov. Bentley today](#) and urge him to sign this important legislation. . If [SB 549](#) by Sen. Ben Brooks, R-Mobile, languishes on the governor's desk without being signed, it will be considered a pocket veto. Twenty-eight members of the Business Associations' Tax Coalition (a business trade association group chaired by ARA President Rick Brown) sent a letter to the governor today asking him to sign the bill.

[>> Learn more about the Taxpayers' Bill of Rights II](#)

On a vote of 33-0 in the Senate and 95-1 in the House of Representatives, the Alabama Legislature on the final night of the 2012 regular session approved the conference committee version of Brooks' bill. The companion measure was [HB 105](#) by Rep. Paul DeMarco, R-Homewood.



The legislation creates an independent and qualified tax appeals commission and makes needed changes in Alabama's audit and tax appeals process. It abolishes the current Administrative Law Division of the Revenue Department and shifts its appropriation, personnel, equipment and tax appeal functions to a newly created Alabama Tax Appeals Commission, aligning Alabama with the vast majority of states that have an independent tax appeals process for businesses and individuals. Georgia added an independent tax court this year, while Mississippi made its tax appeal process independent in 2010.

"Taxpayers should not feel their appeal is unduly influenced by the governing agency," said Rep. John Knight, D-Montgomery, commending DeMarco during final night debate for sponsoring the legislation.

Under this legislation, taxpayers have the option to appeal final assessments of sales, use, rental and lodging taxes issued by self-administered cities and counties and their private auditing firms to the

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Tax Appeals Commission. It allows businesses that cross multiple jurisdictions to use one process for appealing tax assessments rather than having to use a different process for every city and county involved. **The legislation is part of ARA's 2012 Legislative Agenda.**

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FINAL DAY ACTION

Retail Does Well on 2012 Session's Final Day; Special Session in Progress

The 2012 regular session is history, but the Alabama Legislature continues to meet in its first special session of 2012.

The Legislature handled immigration law revisions, both state budgets, the Taxpayers' Bill of Rights, set regulations to placing a security freeze on credit reports and passed the Common Sense Consumption Act on its final day. **The Alabama Retail Association thanks Alison and Phillip Kinney with the Kinney Capitol Group for their assistance in shepherding through legislation that most concerned retailers on the regular session's final day.**

Legislature Revises Immigration Law; Governor Wants More Changes in Special Session

On the 2012 regular session's final day, the Alabama Senate adopted Sen. Scott Beason's substitute version of a revised immigration law. The Alabama House went along with the Senate changes, but the governor made further changes to the state's stringent immigration law part of his call for a special session.

Gov. Robert Bentley said [HB 658](#) by Rep. Micky Hammon, R-Decatur, will remain on his desk unsigned until the Legislature adopts his changes in the special session, which began Thursday. However, no legislative vehicle for the governor's changes had been introduced Thursday, while Beason and Hammon had introduced two new versions. The governor could pocket-veto the regular session immigration bill if he does not sign it within 10 days of May 16, the regular session's last day. The changes the governor is requesting in the special session do not affect the sections of the legislation related to businesses.

Hammond told House members, the immigration bill adopted by the Senate *"doesn't change the intent of the law,"* which the Alabama Legislature passed in its 2011 regular session. He also said his primary concern now is getting the governor to sign the revisions into law.

Senators voted 19-15 Wednesday to remove language from Beason's substitute that would have allowed the Alabama Department of Homeland Security to demand to examine employment records of a business accused through a written complaint of hiring undocumented aliens. *"Homeland Security can't just show up, flash a badge and request records without going through due process,"* the amendment's author, Sen. Paul Sanford, R-Huntsville, said after the Senate removed that provision.

The Senate adopted Beason's amended substitute on a vote of 20-7. The House concurred with the Senate changes on a vote of 67-37.

The bill the Legislature sent to the governor preserves the penalty

BILLS

House

- [HB 15](#)
- [HB 37](#)
- [HB 67](#)
- [HB 101](#)
- [HB 105](#)
- [HB 159](#)
- [HB 160](#)
- [HB 242](#)
- [HB 354](#)
- [HB 433](#)
- [HB 450](#)
- [HB 600](#)
- [HB 625](#)
- [HB 658](#)
- [HB 702](#)
- [HB 745](#)

Senate

- [SB 47](#)
- [SB 100](#)
- [SB 318](#)
- [SB 549](#)
- [SB 567](#)

Special Session

- [HB 13](#)
- [HB 19](#)
- [HB 20](#)
- [SB 20](#)
- [SB 25](#)
- [SB 28](#)
- [SB 29](#)

IN THE NEWS

[Alabama governor wants more immigration law revisions](#)

[Bentley: Address immigration bill's PR problem](#)

provisions in the current law for private businesses that knowingly hire undocumented aliens, up to the permanent revocation of a business license for multiple violations. Hammond's original version had given judges some flexibility in imposing those penalties. *"I'm real sorry that got changed in the Senate,"* Hammond told representatives before asking them to concur with the changes anyway.

The approved legislation does require a policy or practice of violating the law to justify suspending a business license. "Policy or practice" is defined in the bill as "a guiding principle or rule that may be written or adopted through repeated actions or customs."

Changes that retailers support within the newest immigration legislation include:

- removing the law's current requirement that any business with government contracts, grants or incentives obtain notarized affidavits from subcontractors stating that the subcontractors do not employ any unauthorized aliens. Subcontractors are required to use the federal E-Verify system to confirm the legal status of their employees.
- clarifying that the law only applies to those employed in Alabama and to employers of Alabama workers. A company with no physical presence or employees in Alabama does not have to enroll and participate in the E-Verify system or provide proof that it has done either.
- clarifying that *"just because you are paid (by a governmental entity) for a service or product, you are not a state entity,"* Beason said. To be considered a state-funded entity subject to the law's contract provisions, a business must have won the government business through a competitive bid or have had the contract reviewed by the state's legislative contract review committee. *"Merely selling a product" to a governmental entity doesn't make a business a contractor,* Hammond said.

ARA's 2012 Legislative Agenda advocated for clarification of the 2011 immigration law as well as the minimization, reduction and elimination of administrative burdens and penalties connected with the law. The approved legislation appears to have met most of those requirements. **A legal analysis of the legislation will be included in next week's regular and special session wrap-up.**

Beason ([SB 28](#)) and Hammon ([HB 20](#)) have introduced new immigration revisions in the special session. The Senate Judiciary Committee carried over Beason's bill during its meeting today. Hammon's has not yet been scheduled for committee consideration.

2013 Budgets Adopted; Voters to Decide Funding; Medicaid Provider Cuts for Current Budget Set

The Alabama Legislature emerged from its regular session with two budgets that the governor says he will sign into law. The Legislature approved a \$5.4 billion education budget for 2013, which is about \$208 million less than the current budget.

The state's \$1.67 billion General Fund budget for 2013 is \$66.7 million less than what the state is expected to spend in this year's budget. That budget depends on a measure before the Legislature in its special session and a vote of the Alabama people on a fund transfer.

In the special session, the Legislature will have to approve moving 25

[Governor urges changes to latest immigration law](#)

[Alabama governor sends immigration law back to drawing board](#)

[Changes keep immigration law intact, add provision](#)

[House gives final passage to immigration changes](#)

[Alabama Senate approves immigration law revisions](#)

[Alabama's Sessions supports ending tax loophole that illegal immigrants can use](#)

[Governor will sign budgets, court costs bill](#)

[Alabamians to decide fate of General Fund in September](#)

[Legislature passes General Fund budget](#)

[Alabama lawmakers pass General Fund budget at buzzer](#)

[Alabama legislators adopt operating budget](#)

[Legislature gives final approval to Alabama education budget](#)

[Alabama Senate approves education budget that wouldn't cut teachers](#)

[Alabama Legislature faces last day of session without budgets](#)

[Home brew bill fails to come up on final day](#)

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percent of state use taxes (a net of \$30 million) into the General Fund. The House Ways and Means Education Committee this morning amended and approved [HB 13](#) by Rep. Jay Love, which would make that transfer. Love's bill is part of the governor's call for the special session.

Alabamians will have to vote Sept. 18 on a measure that would transfer \$145.8 million from the oil and gas trust fund to the General Fund. The amount would also be transferred in 2013 and 2014. If voters don't approve the measure, legislators will have to meet in a second special session to decide how to fund the state's general operating expenses. One option is a \$1-per-pack tax on cigarettes. The Senate Finance and Taxation General Fund Committee this morning carried over [SB 29](#) by Sen. Vivian Davis Figures, D-Mobile, which would ask the voters to approve a cigarette tax. *"Let's wait until we see the will of the people on the September constitutional amendment,"* Sen. Paul Sanford, R-Huntsville, urged the committee.

Meanwhile, this morning the Alabama Medicaid Agency released cuts to Medicaid providers needed to meet the current prorated General Fund Budget. The reductions effective June 1 include a 10 percent reduction in payments to certain Medicaid providers and a limit to one brand-name drug per month for Medicaid recipients.

[>> Read the full Medicaid provider reductions released this morning](#)

Medicaid will receive \$603 million in the 2013 General Fund budget, the absolute minimum the governor said he would accept. State Health Officer Don Williamson, leader of a task force monitoring Medicaid expenses, said more cuts to doctor reimbursements and services will be needed to meet the 2013 budget.

Some relief for Medicaid providers may be forthcoming. This morning on a 5-3 vote, the Senate Finance and Taxation General Fund Committee approved [SB 20](#) by Sen. Billy Beasley, D-Clayton, which would give certain providers receiving less than \$1 million in annual Medicaid payments in the 2012 calendar year, a state income tax deduction equal to 15 percent of Medicaid payments received beyond the first \$10,000. The bill now goes to the full Senate.

The approved General Fund budget also includes instructions for the Medicaid Agency regarding generic drugs. By Oct. 1, Medicaid is to give the chairmen of the legislative budget committees a report on the agency's generic drug rebates. The budget instructs the agency to seek increased rebates in the 2013 fiscal year, which begins Oct. 1. The agency is further instructed not to *"implement a generic rebate program that will cause a significant loss of generic availability"* and *"not pay for a generic drug that is more expensive than its brand name drug net of rebates."*

Credit Freeze with ARA Provisions on Governor's Desk

On the last day of the session, the Alabama Legislature approved [HB 15](#) by Rep. DuWayne Bridges, R-Valley, which would regulate Alabama residents' power to put a security freeze on their credit report. It prohibits a credit reporting agency from releasing a frozen credit report or score to a third party without the explicit consent of the consumer. The legislation also sets up methods by which a consumer can have the freeze lifted in under 15 minutes, should he/she wish to apply for credit. **The bill incorporates ARA-requested**

[Alabama Legislature](#)

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[Hopes dim for special session to help Jefferson County](#)

[Jefferson County occupational tax officially dead](#)

[Supporters say Jefferson County tax plan is dead](#)

[Alabama House takes Jefferson County occupation tax plan off voting agenda](#)

[Two House members announce opposition to Jefferson County tax plan](#)

[Jefferson County occupational tax has little support in Alabama Legislature](#)

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[Reapportion committee](#)

changes. The Senate approved the bill 31-0, then the House concurred on a vote of 100-0. Bridges told representatives that senior citizens had requested the bill to help prevent identity theft.

Common Sense Consumption Bill with Governor

With one minute to spare on the final legislative day, a bill was delivered to the governor Wednesday that would protect retailers from being sued by someone claiming food bought from retailers or eaten in restaurants made them obese. The Senate approved **HB 242** by Rep. Mike Jones, R-Andalusia, on a vote of 29-0-2 after having carried over the measure earlier in the day. The bill does not prevent food mishandling lawsuits.

Besides retailers, those covered by the Common Sense Consumption Act are manufacturers, packers, distributors, carriers, holders, marketers or advertisers. **ARA supports the Alabama Restaurant Association bill.** Twenty-four other states have passed similar legislation. The companion legislation, **SB 100** by Sen. Gerald Allen, R-Tuscaloosa, never received committee approval. Allen told senators the legislation supports self responsibility, while protecting small business people.

Restaurant Rebate Bill on Governor's Desk

HB 37 by Rep. Joe Hubbard, D-Montgomery, which offers restaurants a four percent rebate for buying Alabama-grown food products and any seafood product caught or processed in Alabama. The Senate approved the bill 29-0-1; and the House concurred with the Senate changes. Even though it has no funding mechanism, the Alabama Legislature signed off Wednesday on a vote of 97-1.



The bill creates the Alabama Purchase of Local Agricultural Products Incentive Program Fund into which the state can deposit "any public or private grants, gifts, and donations." The program, fund and rebates would only exist through Sept. 30, 2015. If the

governor signs it into law, it would become effective Aug. 1.

Senate Approves Multiple Alcohol-Related Jobs Bill

The Senate voted 27-0-1 Thursday for **HB 101** by Rep. Mike Jones, R-Andalusia, which would do away with an outdated law that prohibits working at more than one business that sells alcoholic beverages. If the governor signs the bill into law, it would take effect Aug. 1.

Joe Wheeler State Park Alcohol Sales a Step From Law

On a vote of 76-2-9 Wednesday, the Alabama House concurred with Senate changes to a bill that will allow six-day, on-premises alcohol sales at the Joe Wheeler State Park lodge near Florence. **HB 625** by Rep. Mike Ball, R-Madison, allows six-day sales in every state park with a lodge and restaurant. Four of the five state parks with lodges and restaurants already serve alcoholic beverages at their

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[Special session under way](#)

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[Special session will include redistricting, immigration](#)

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[Labor board suspends rule on union elections](#)

[Judge rejects new rule on union organizing](#)

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Alabama State House

11 South Union Street

Montgomery, AL 36130

CALL:

restaurants. The goal of Ball's bill is to double the occupancy rate at Wheeler by allowing alcohol sales there.

Expedited Civil Case Bill Goes to Governor

On a vote of 33-0 in the Senate and 93-0 in House on Wednesday, the Alabama Legislature approved the conference committee version of SB 47 by Sen. Cam Ward, R-Alabaster, which requires the Alabama Supreme Court to adopt guidelines to expedite circuit court civil cases in which damages do not exceed \$50,000. If the governor signs it into law, the bill takes effect Aug. 1. The original bill would have applied to all cases with less than \$100,000 in damages and also would have applied to district, municipal and probate court cases.

DEAD BILLS

Several ARA-Monitored Bills Die on Final Day

A number of bills the Alabama Retail Association monitored throughout the 2012 regular session died on the final day because of inaction, including:

- **[HB 160](#)** by Rep. Barry Mask, R-Wetumpka, which would have allowed companies in certain instances to use income taxes withheld from full-time employees to build or expand operations in Alabama, along with HB 159, a constitutional amendment, also by Mask, that would have required the state's voters to approve the provisions of HB 160.
- **[HB 600](#)** by Rep. Barry Moore, R-Enterprise, which would have created the Alabama Small Business Financing Authority to work with banks and other lenders to provide capital and loans to small businesses as recommended by the Speaker's Commission on Job Creation.
- **[SB 567](#)** by Sen. Jabo Waggoner, R-Vestavia Hills, which would have raised as much as \$62 million annually for bankrupt Jefferson County through occupational taxes or through replacement sales taxes. Waggoner's bill was similar to **[HB 745](#)** by Rep. Jack Williams, R-Vestavia Hills, which the full House never considered. The bills would have granted such taxing power to any county commission that in the next three years files for bankruptcy, and then is found by a federal judge to be eligible to file for bankruptcy. Currently, Jefferson County is the only county meeting those criteria.
- **[HB 354](#)** by Rep. Mac McCutcheon, R-Capshaw, which would have allowed home brewers to make up to 15 gallons of beer, cider and wine every three months as long their homemade spirits are not offered for sale.
- **[HB 67](#)** by Rep. Alan Boothe, R-Troy, which would have defined draft or keg beer as beer packaged and distributed in a keg by the manufacturer.
- **[HB 702](#)** by Rep. Jamie Ison, R-Mobile, which would have forgiven business privilege tax obligations for any dormant business, even if the business failed to dissolve or to withdraw its qualification to do business with Alabama's Secretary of State.
- **[HB 450](#)** by Rep. Patricia Todd, D-Birmingham, which would have created a state lemon-law for defective assistive devices.

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.

CONTACT INFO:

Find a list of members of the Alabama House **[here](#)**. A complete list of senators is available **[here](#)**.

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REDISTRICTING

Legislature to Redraw District Lines in Special Session; Restraining Order Denied

Two Montgomery County residents attempted a temporary restraining order to stop the Alabama Legislature from acting on redistricting before any reapportionment legislation even gets a floor vote in the special session that began Thursday. A Montgomery judge turned down their request this afternoon.

This morning on a 6-2 vote, the House Constitutions, Campaigns and Elections Committee approved [HB 19](#), the redistricting proposal for House districts proposed by Rep. Jim McClendon, R-Springville. It now goes to the full House for consideration.

The Senate Judiciary Committee approved new Senate boundaries on a vote of 6-3. [SB 25](#) by Sen. Gerald Dial, R-Lineville, now goes to the full Senate.

NEXT LEGISLATIVE DAY

The Alabama Senate will meet at 10 a.m. Monday, May 21, for the third legislative day of the first special session of the 2012 Alabama Legislature. The House will convene at 11 a.m.

FEDERAL

Quickie Union Elections Rule Suspended; Judge Strikes Down Regulation

The National Labor Relations Board has suspended implementation of a rule to speed up union elections after a federal judge struck down the regulation.



Monday, U.S. District Judge James Boasberg struck down National Labor Relations Board regulations allowing unions to hold "ambush" organizing elections, saying the panel did not have a quorum when it approved the new rules late last year. The regulations won final approval in December, with two of three members voting in their favor. The voting was conducted using an electronic

system that does not require board members to gather in person. NLRB, which now has its full five members, was free to vote again.

conjunction with the [University of Alabama at Birmingham School of Business](#), sponsors the Retailer of the Year program. Help us recognize the top retailers in Alabama and their accomplishments in the retail industry.

DEADLINE FOR NOMINATIONS

Friday, May 25

Nominees will be asked to complete entry forms, which must be received by Friday, June 22. The selection of winners will take place by July 20 and winners will be notified by Aug. 1.

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Wednesday, May 23



*Presented by Nicole
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