

LEGISLATIVE UPDATE



October 2021



Governmental Affairs Newsletter

Advocacy is a key part of what we do here at the Opelika Chamber. We value the importance of keeping our community informed. Earlier this year, we battled and won the fight on changing the MSA status for towns at the 100,000 population rate, but it won't stop there. To learn what's happening in all things governmental relations at the state and federal level, read on.

WHAT'S INCLUDED:

- 2021 Alabama State House Session Update
- The Bipartisan Infrastructure and Reconciliation Bills Explained
- Executive order for mandatory vaccinations in workplace

If you're interested in getting governmental affairs related emails, let us know here!

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2021 Alabama Government Affairs

The Opelika Chamber of Commerce wants to inform you of all the important happenings in our state government this year. The Alabama Legislature has recently adjourned for the 2021 Regular Session. Many legislative changes were made during this session that may affect members of the Opelika community. They're currently in special session now, so more updates will come later!

WHAT YOU NEED TO KNOW

Governor Kay Ivey signed all bills except one that can be reintroduced at the 2022 session. Overall, the 2021 session was deemed successful after both the General Fund Budget and Education Trust Fund Budget were passed by the Legislature and signed by Governor Ivey. These budgets include pay raises for state employees and education employees that have noteworthy significance as election time draws near.

Other important bills passed were as follows:

- Delayed the filing dates for Alabama state tax returns, conforming to the federal dates.
- Granted limited immunity to employers from good-faith actions related to the COVID pandemic.
- Banned the requirement for vaccine passports
- Economic development incentives
- Authorized medical cannabis

The legislation authorizing a state lottery, casino gaming, and other related fields including an agreement with the Poarch Creek Band of Indians failed to pass on the 29th Legislative Day. House leadership attempted to adopt a last-minute Special Order Calendar for the lottery that not only failed, but caused an explosion of distrust between the House Republicans and Democrats. Unless an agreement can be reached, the lottery and gaming legislature will not be dealt with until its return in January 2022.

Several issues will require special sessions before January 2022, including:

- Redistricting of the Legislature, the State School Board Districts, and the Congressional Districts
- Allocation of COVID relief funds
- Prison construction funding

The Alabama House & Senate is currently in special session to discuss prison construction funding. They will reconvene at noon on Tuesday, January 11, 2022 for the 2022 Regular Session. We plan to keep you updated on all things governmental relations as developments continue to occur in the state of Alabama.

The Bipartisan Infrastructure and Reconciliation Bills Explained

To help you better understand what's happening on Capitol Hill with the bipartisan infrastructure and the \$3.5 trillion spend and tax budget, here are two explainers:

- [DEADLINE EXPLAINED](#)
- [RECONCILIATION EXPLAINED](#)

Why it matters: While some would like to see these two bills tied together to advance, there is no linkage between the two in any rule or order of the House.

Be smart: Although Congress passed a continuing resolution to temporarily avoid a government shutdown yesterday, the House continued to debate the Infrastructure Investment and Jobs Act late into the night. We expect a vote today.

Big picture: The bipartisan infrastructure bill is the largest federal investment in both public transit, clean drinking water, and waste water infrastructure in American history. It is the largest investment in passenger rail since the creation of Amtrak and makes the single largest dedicated bridge investment since the construction of the interstate highway system. It has earned the support of both business and labor and deserves the support of every member of Congress.

**Check out President Biden's
COVID-19 Action Plan here:
<https://www.whitehouse.gov/covidplan/>**

Mandatory Vaccination for Federal Employees

President Biden recently issued two executive orders mandating that all federal employees and federal contractors be vaccinated against COVID-19 and ordered OSHA to issue an Emergency Temporary Standard (ETS) requiring employees of companies with 100 or more employees to either be vaccinated or be tested weekly for COVID-19 as part of his “Path out of the Pandemic.”

What does it mean for your Business?

OSHA Emergency Temporary Standard

President Biden has directed OSHA to develop a rule requiring employers with more than 100 employees to ensure that their workforce is either fully vaccinated or tested weekly. According to the White House:

“The Department of Labor’s Occupational Safety and Health Administration (OSHA) is developing a rule that will require all employers with 100 or more employees to ensure their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work. OSHA will issue an Emergency Temporary Standard (ETS) to implement this requirement. This requirement will impact over 80 million workers in private sector businesses with 100+ employees.”

First, the ETS will likely be tied up in litigation almost immediately. The standard for issuing an ETS is very high: it requires a showing that employees are in grave danger and that the ETS is necessary to protect employees from such danger. Several governors have already stated that they would challenge the ETS when it is issued. Whether or not the plaintiffs are successful, you can be certain that there will be a multitude of lawsuits filed against its enforcement.

Next, further complicating things, 22 states (includes Alabama) regulate workplace safety and health through a state-run OSHA program. These "state plans" are required by OSHA to adopt an ETS that is at least as effective as the federal ETS. Both the governors and the legislatures in these states are generally opposed to federal vaccine mandates, and so it is possible that these states will refuse to issue an ETS.

Finally, it is likely that employers (and not the employees) will be responsible for the cost of COVID testing under the ETS. However, what is less clear is whether the cost of weekly testing will be covered by health plans or if the employer must cover the testing costs out of pocket.

Executive Order on Federal Contractors

This order mandates that all employees of federal contractors and subcontractors must be vaccinated. It delegates the authority to set the specific requirements of this mandate to the Federal Acquisition Regulatory Council and the various government agencies by December 8. We will likely know more at that time. Our medical community that receives Medicare/Medicaid payments may want to follow this order as it unfolds over the next few weeks.

A few things to consider:

1. OSHA will be releasing an Emergency Temporary Standard (ETS) that will be coming out in "weeks"? This ETS in essence will be a temporary law.
2. The FINAL OSHA Rules won't be out most likely for 6 months after the ETS is released and the law will become permanent.
3. The ETS testing/vaccination requirements will not apply to remote workers who are physically isolated from co-workers.

WHAT WE'VE LEARNED: Employers will be expected to follow the ETS guidelines (i.e. the vaccine mandate) until which time a court issues an injunction or strikes the ETS down.