

# WINDOM GALLIHER

## MONTGOMERY UPDATE

MAY 29, 2015

### Special session? Not matter of if, but when

#### General Fund budget continues to cast pall over legislative session

*The first thing I remember knowing ... was a lonesome whistle blowing ... and a young'un's dream of growing up to ride ... on a freight train leaving town ... not knowing where I'm bound ... and no one could change my mind ... but Mama tried. – "Mama Tried," Merle Haggard.*

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Less than two weeks from now when the 2015 regular legislative session ends, it will be obvious that Speaker of the House Mike Hubbard and Senate President Pro Tem Del Marsh tried.

They've taken the long view that the General Fund needs help – certainly not the \$541 million that Gov. Robert Bentley has sought – but some amount to ensure that Medicaid and Corrections reform don't run off the rails.

And as much as they've tried, the more difficult the task has become. The likely outcomes are: the final General Fund budget this session will be the austerity plan that includes cuts to every agency and a special session.

The children's Sunday School song teaches us that the wise man builds his house upon the rock, while the foolish man builds his house upon the sand. Rocks, unfortunately, are nowhere in sight. Sand is as plentiful as ever. Every plan that's been constructed to prop up the budget unfortunately has been built on sand.

With four legislative days left in the session, it appears Speaker Hubbard (R-Auburn) and Sen. Marsh (R-Anniston) will have no choice but to let the budget go to the Governor with no new revenue or



#### SENATE PRESIDENT PRO TEM DEL MARSH (R-ANNISTON) FINDS HIMSELF WITH FEW OPTIONS ON GENERAL FUND BUDGET

any mechanisms to raise money for the General Fund.

Gov. Bentley has set himself in concrete for a budget that includes new revenue. At one point in the week, there were hopeful signs that legislative leadership and the governor could cobble together a framework for a deal that would raise some revenue – most of it through removal of exemptions and moving money around between the education and general fund budgets – but it fell apart like all the other potential plans.

Even if the deal had been put together, the rank and file membership of both chambers seems eager to avoid taxes and other revenue measures at all costs. Recent local referendums have stoked the anti-tax fires of a wide majority of legislators. In Colbert County this week, voters crushed a 3-mill tax referendum for schools by an 88 percent to 12 percent margin. Another stinging defeat

came earlier this year in Baldwin County when some votes for tax renewals were paired with some new revenue. Each of the measures died, which resulted in the school system losing money.

So from the Tennessee Valley to the Gulf of Mexico, the message from voters remains the same – *no new taxes*. Legislators have heard the message.

Sen. Marsh had floated an omnibus gaming bill that would restore operations at the shuttered facilities in Macon, Mobile, Jefferson and Greene counties, would call for a referendum on a state lottery, and empower the Governor to negotiate a compact with the Poarch Band of Creek Indians.

By Thursday morning, with no consensus on the bill, he indicated that he would delay the bill until "a special session."

(Please see BUDGET, Page 3)

## Feds, state reach agreement on plan for Tutwiler Prison

Newly installed Corrections Commissioner Jeff Dunn is making a difference quickly. Commissioner Dunn and the Bentley Administration took a major piece of the United States Department of Justice's suit against the state off the table, reaching an agreement over standards at Julia Tutwiler Prison.

Tutwiler, the state's women's prison, has been considered a major problem for the state in years past. The state agreed to implement several measures – including the hiring of an inmate rape prevention manager – to improve conditions for inmates.



**NEW CORRECTIONS COMMISSIONER  
JEFF DUNN GETS AN IMPORTANT WIN  
EARLY IN HIS TENURE**

"ADOC has made significant improvements at Tutwiler and other facilities to ensure women are protected from misconduct," Commissioner Dunn said.

Gov. Robert Bentley called it a "major step forward in the process," and thanked the Department of Justice for reaching the agreement with the state.

Even with the agreement, issues at other facilities are under federal scrutiny. The Legislature passed a massive reform bill that Gov. Bentley signed into law this week, but funding for the legislation is in jeopardy as it is not included in the current version of the General Fund budget.

### House sends education budget to governor

On Tuesday, the House of Representatives concurred in the conference committee report on the \$6 billion education budget, which was the final vote necessary to send the bill to Gov. Robert Bentley.

The early thought was that the Governor would sign the bill quickly. There has been some talk later in the week that there's a tweak or two he might make to the budget. That would require an executive amendment that would have to be approved by the Legislature.

One area that might receive attention is a program at Troy University that was apparently underfunded in the budget. Is it enough to warrant an executive amendment? Gov. Bentley essentially has until next Thursday to decide.

### Legislature overrides Governor's veto

It's not often that local bills get vetoed, so when it happened on Tuesday, it wasn't well received by the Legislature.

Rep. Randy Wood (R-Oxford) had a bill that would place a tax on sales at state-operated ABC stores in Calhoun County with the proceeds of the tax going to the county district attorney's office.

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### TEN-MINUTE CALENDAR

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Gov. Bentley nixed the bill, but both chambers overrode the veto.

Under the state constitution, the Legislature can override a gubernatorial veto with 53 votes in the House and 18 votes in the Senate. The House voted 55-17, and the Senate voted 18-2 to pass the bill over the Governor's objection.

Rep. Wood's bill was one of several bills introduced this session to help fund district attorneys' offices. Several weeks ago, legislative leadership agreed that Rep. Wood, who was first to the party with his bill, would be allowed to pass his bill. The rest would not.

### House freshman gets stuck

Freshman Rep. Anthony Daniels (D-Huntsville) got himself in a jam Tuesday afternoon on the floor and wasn't quite sure how to get out of it.

Earlier in the day, he voted with the majority of the House to reject the budget isolation resolution – the required procedural vote to allow a bill to come to the floor for a vote – on HB434 by Rep. Steve McMillan of Gulf Shores that would transition elected local superintendents of education to appointed positions.

Speaker of the House Mike Hubbard (R-Auburn) was about to adjourn the House for the day when Rep. Daniels sought recognition. He asked the House to reconsider the bill. He said he wasn't enamored with the bill, but heard from several local folks after the vote and said he was moved to ask the body to give the bill a second chance. Approximately 40 county systems elect their superintendent.

Several members took the microphone to complain pointedly about the bill, including frequent filibusterer Rep. Mary Moore (D-Birmingham), who spent the last five minutes of her time repeatedly asking Rep. Daniels how many calls he had received, how many texts and how many emails.

Finally, Speaker Hubbard called for a vote on the reconsideration motion – a voice vote. He decided the "nays" won, and recognized designated adjournment motion maker Speaker Pro Tem Victor Gaston (R-Mobile) to put an end to the 20-minute delay.

### Three-day week awaits legislators

With only four days remaining in the session – three of which scheduled for next week – it will be interesting to see how the end of the session unfolds.

There are many important bills left to pass, including a state parks bond issue, economic development legislation, and scores of local bills.

Depending on the mood next week they could all pass – or die.

## Budget

### (From Page 1)

Speaker Hubbard had long since dropped his proposal for a compact giving exclusive gaming rights in the state to the Poarch Creeks in exchange for an annual assessment in the neighborhood of \$250 million.

*So, no to taxes and gambling. And yes to a bare-bones budget.*

The questions left remaining are:

-How does the Legislature play out the remainder of the session? 1) Does it pass the General Fund budget next week and send it to Gov. Bentley, who'll surely veto it and send it back immediately.

That would require an override of the veto. Otherwise, there would be no budget, and the political ramifications of that would seem large to legislators. 2) Does it wait until the last second of the session, pass the budget and adjourn *sine die* as the budget is dropped on the governor's desk? That seems more likely.

-When will the Governor call the special session? He's threatened to "call 10 special sessions, if necessary," and he's threatened to call the Legislature back on July 4. Some have speculated he'll wait until August – a popular month in years past to try to deal with balky budgets. There has been one of school of thought that the Governor could wait until January 2016 and let the impact of the cuts be felt. That's a dangerous prop-

osition, though, as many state employees would have to be laid off and other services cut as the agencies squirmed under the new budget.

Whatever occurs, you can rest assured the discussions of taxes and gambling aren't complete, and you can rest assured there are more than a few legislators that will adamantly dig in against both. There will also be discussions of unearmarking and combining the state's budgets. That's not an easy sell, either. As hard as Speaker Hubbard and Sen. Marsh have tried this session to build consensus, they'll get the opportunity to try again sometime soon

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## WINDOM, GALLIHER & ASSOCIATES

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**Note:** The Windom Galliher Montgomery Update will publish weekly during the Legislative Session.