

# THE BUSINESS ADVOCATE

Volume 7 | Issue 1

A publication of the Business Council of Alabama

SPECIAL EDITION



## 2016 State Legislative Agenda





**TOP:** Zeke Smith, executive vice president of external affairs, Alabama Power Co., and chairman of the Alabama Workforce Council, gave an update on the Alabama Workforce Council, at the Business Council of Alabama's Committee Days meeting in Birmingham.

**BOTTOM:** Joe Morton, Ph.D., chairman and President of the Business Education Alliance of Alabama and a former state school superintendent, discussed the BEA's new report, *Teachers Matter: Rethinking How Public Education Recruits, Rewards and Retains Great Educators*. The report is the second major white paper by the BEA.

## Education / Workforce Preparedness

*The Business Council of Alabama supports adopting policies and processes that ensure sound, sustainable funding for public education. The BCA advocates that adequate and equitable funding for effective public education at all levels is essential if the system is to effectively prepare Alabama's children and young adults to meet the challenges of an increasingly complex economy and competitive workforce. Therefore, the BCA supports policies that promote access to quality education and strengthen public awareness that further educational investment as not only necessary, but also essential, in ensuring personal income growth and economic opportunity for all Alabamians.*

### BCA Supports

- Fully implementing the recommendations and conclusions of the Business Education Alliance's report, *Teachers Matter*, which support the recruiting, rewarding, and retaining of high quality teachers. Supporting *Teachers Matter* is a continuation of the previous report, *Obstacles Into Opportunities*, that advocates adopting and systematically pursuing the goal of reaching a quality high school graduation rate of 90 percent by 2020.
- The BEA recommends the financial support of the following programs: High Quality Pre-K programs & assessments, ACT Aspire Testing, Dual Enrollment, Career Coaches, ACCESS Distance Learning, AMSTI, Advanced Placement, At-Risk & Community Grants, Teacher Professional Development and Recruiting Incentives, Teacher Mentorship, Professional Pathways Pilot, and Rewards for Schools.
- Maintaining funding for seamless training programs for existing industries and

businesses to help employees advance on technical career paths, and ensuring that adequate numbers of trainable workers are available to "back-fill" existing jobs as experienced employees are hired and promoted by new and emerging industries. These training programs must align with nationally recognized credentials.

- Continuing to explore and advocate for policies that emphasize parental options for their children's education.
  - Continuing and maintaining the regional and state workforce training development councils as the process for determining how to spend workforce training money.
  - Continuing the consolidation of workforce development programs and activities, as necessary, into an efficient, focused, and responsive system of workforce education and training, which utilizes all of the resources available through the use of career coaches in the secondary level as well as adult education programs in the Alabama Community College System. This streamlining should align with and recognize the consolidation ongoing in the Department of Commerce in ADECA, ATN, AIDT, and the Regional Councils.
  - Strengthening adult education programs to ensure that more adults will earn a GED, for those who do not complete high school.
- Encouraging public high schools and institutions of higher education to promote greater understanding of personal financial management as well as an emphasis on soft skills.
- Ensuring that the education and job training programs available to Alabama students culminate in nationally recognized credentials specifically relevant to job opportunities that are or will be available in the

state, and that state resources be allocated to support such credentials at the secondary and postsecondary level.

- Researching alternative methods of compensating and retaining teaching professionals that are proven to be fair and valid, and which allow for pay differentials and incentives based on performance, and the teaching of subjects that are difficult to staff and work in underserved areas.
- Monitoring legislation that provides for the appointment of all city and county superintendents of education by their local boards

of education or monitoring any research related to this issue.

- Maintaining high academic standards and expectations for all Alabama students such as those found in the Alabama College and Career Ready Standards.

### BCA Opposes

- Efforts to remove the responsibility and exclusive jurisdiction of setting academic standards from the Alabama State Board of Education.

## Environment & Energy

*The Business Council of Alabama will work for sound environmental and energy legislation consistent with continued economic growth within the state. The BCA has a long-standing policy that applicable state environmental laws and regulations should be no more stringent than federal environmental laws and regulations, and the Environmental Protection Agency and all 50 states should adopt and implement regulations in a manner so that no state's industry has an unfair advantage. The BCA believes that smart, sensible policies that encourage new growth and innovation in energy will benefit us all and usher in a new and long-lasting era of energy abundance.*

### BCA Supports

- Retaining state primacy for federal programs by coordinating with state regulatory agencies to obtain the necessary funds and authority to properly administer the programs.
- Adequately funding the Alabama Department of Environmental Management (ADEM) so that it may provide experienced personnel to carry out necessary services without wasteful overlap of programs. This includes the support of General Fund appropriations to ADEM in order to eliminate the need for continued fee increases imposed by the ADEM on the backs of Alabama's regulated industries. A clean environment is a benefit to all Alabamians; therefore, the cost to sustain it should be equitably borne by all.
  - Eliminating ADEM fee increases that are adopted to address reductions in General Fund appropriations in the event that the appropriations are restored.
  - Ensuring that state agencies are proactively involved in activities of the EPA and other federal agencies that impact the regulated community. This includes challenging actions taken by federal agencies that are not based on sound science or actions that exceed the authority granted by the U.S. Congress.

- Funding and gathering data associated with surface water, groundwater, and in-stream flows/ecosystems to provide a full understanding of the state of Alabama's water resources as well as supporting and funding the protection of our interstate water resources and implementation of Alabama's drought management program.

- Adequately funding the Office of the State Climatology program.
- Ensuring that any legislative rule or policy changes to provide the funding to support regulatory programs are complemented by efforts to ensure consistency, minimize burdens on the private sector, and reduce duplication so as to support economic development.

### BCA Opposes

- Implementing environmental policy or regulations on the state level that would put Alabama business, manufacturing, and/or economic development at a disadvantage. This includes any efforts by ADEM or the EPA to overreach their authority.
  - Enacting legislation or regulations that would have an unnecessary detrimental effect on existing industry and that may have a negative effect on economic development.
  - Enacting legislation that attempts to adversely affect a particular business-related activity. This includes efforts that would make it more difficult for any specific industry to obtain the government approvals necessary to permit, expand, or operate the industry.
    - Redirecting funds from ADEM, such as remediation funds, to the General Fund. These funds support specific environmental programs and should not be used to supplement losses in other state agencies.
    - Enacting legislation that imposes specific mandates for agencies to use certain products, formulas, or analyses that



**TOP:** BCA board of directors member Jeannine Birmingham, CPA, CAE, CGMA, president and chief executive officer of the Alabama Society of Certified Public Accountants, and co-chair of the BCA's Tax and Fiscal Policy Committee, reviewed the BCA's draft 2016 tax and fiscal policy agenda.

**BOTTOM:** Owen Bailey, administrator of USA Children's & Women's Hospital in Mobile, serves on the BCA board of directors and is co-chair of the BCA's Health Committee. He reviewed the BCA's proposed 2016 health agenda.

would give select industries a competitive advantage over other Alabama industries.

- Implementing changes to Alabama's water laws and regulations that are not based

on a demonstrated need from a completed comprehensive statewide water assessment.

- Disrupting the work of the Forever Wild Program.

## Health

*The Business Council of Alabama strongly supports and will work to protect employer-sponsored health care coverage through private insurers and self-insured/ERISA plans. In that effort, the BCA encourages innovative solutions that increase employers' choices in purchasing affordable, quality health care and prescription coverage while decreasing health care costs through free-market competition without government interference. To be successful, health care coverage, both in the public and private sectors, must encourage consumer involvement, promote wellness and prevention, and reward quality. The BCA opposes all health care and insurance related mandates on employers and/or individuals because they increase costs without improving the quality of care, and the BCA opposes proposals for any type of single-payer system.*

### BCA Supports

- The passage of Medicaid reform legislation in 2013 positioned the state to manage all aspects of the program into the future, including cost and care delivery. To further address the state's underinsured and uninsured, the BCA encourages the governor to pursue the estimated \$10 billion (available from 2015 to 2020) held by the federal government to create a fiscally responsible, Alabama-driven approach for Medicaid expansion. Such an effort will return Alabama tax dollars to the state and will minimize the detrimental effects--taxes, fees, reductions in hospital and physician payments—of the Affordable Care Act on Alabama.

- Maintaining the Certificate of Need process and the current composition of the Certificate of Need Board or efforts to increase payer and consumer business representation on the CON Board.

- Discussing options to better clarify the roles of "physician extenders" in the provision of primary medical care services in Alabama.

- Increasing representation of payers of health care services to state health and medical boards.

- Developing innovative solutions for prescription drug coverage at a reasonable cost while opposing mandated prescription drug pricing.

- Alabama's Healthy Food Financing program, which incentivizes small businesses such as grocers, farmer's markets, co-op extensions and other food retailers to renovate, expand or locate in underserved communities.

### BCA Opposes

- Mandating employer-provided health care benefits or any legislation, resolution or regulation that would increase health plan costs.

- Measures aimed at pharmacy benefit managers (PBM) that drive up the cost of health plans or otherwise impair the ability of PBMs to effectively manage health benefit costs.

- Enacting or expanding licensure laws where there is no evidence-based impact on quality of care or outcomes.

- Any legislation attempting to make pseudoephedrine a scheduled drug available to

Alabama residents solely by prescription, whether by a medical doctor or pharmacist. A prescription mandate for common cough, cold and allergy medications will increase health care costs for Alabama residents,

state government and business. It will lessen employee productivity and severely reduce access to safe and effective medication for consumers.

## Judicial And Legal Reform

*The Business Council of Alabama supports transparency in all aspects of the judiciary and the judicial system and advocates for the current open and democratic election process for Alabama's judges. The BCA also supports the right to exercise free speech in all aspects of the political process and the timely and easily accessible reporting of all political contributions, financial commitments, or expenditures. The BCA is a strong advocate for reducing the filing of frivolous lawsuits and striking an appropriate balance between protecting consumer and business interests with the goal of having a fair business climate in Alabama.*

### To Reduce The High Costs Of Litigation BCA Supports

- Reducing the filing of frivolous lawsuits through modifications to the Alabama Litigation Accountability Act and the Alabama Rules of Civil Procedure.
- Reforming the civil discovery process to reduce costs to litigants and the court system and to promote the just and efficient resolution of disputes.
  - Reforming non-economic damages.
  - Efforts to enact and revive statutes of repose that will reduce the prejudice to parties that can arise from the litigation of stale claims.
  - Legislation that would treat as loans and regulate lawsuit lending under existing statutes governing fair lending practices to

protect the interests of the public.

- Adopting the full Daubert standard for accepting expert testimony in Alabama courts that is consistent with the federal standard.
- Establishing an expedited dispute resolution system for Alabama's small businesses to provide for the efficient resolution of claims.

### BCA Also Supports

- Clarifying the definition of what constitutes "the use of a product" with regard to product liability actions in which plaintiffs pursue defect allegations against one or more components of an entire product, rather than the product as a whole.
- Reinstating the intent of the Alabama Deceptive Trade Practices Act that class actions under that Act be brought only by a district attorney or the office of the Attorney General.
  - Efforts to clarify that businesses that are victims of cyber crimes are not punished by the imposition of undue fines or criminal or civil penalties or subjected to additional liability for the criminal acts of other parties.
  - Reforming laws related to nuisance actions to ensure that the standards and statute of limitations for such actions do not undermine economic development efforts.
  - Establishing a business dispute resolution system that will provide a stable and reliably informed system for resolving business and commercial disputes.



**TOP:** Birmingham attorney Greg Butrus, co-chair of the BCA's judicial and legal reform committee, outlined the draft 2016 judicial and reform agenda.

**BOTTOM:** Andrew Wynne, senior director of state legislative affairs for the U.S. Chamber of Commerce's Institute for Legal Reform, presented the report, *Ranking the States - Legal Reform in Alabama*. The Chamber's ILR is the nation's most influential and successful advocate for civil justice reform.

- Establishing a privilege for accountant work papers and self-critical analysis and self-evaluation activities.
- Legislation to amend Alabama law to ensure uniform protections for Alabama businesses and corporations.

- Legislation that will align Alabama with those states that disallow claims of alleged second-hand exposure to asbestos or silica.

## Labor & Employment

*The Business Council of Alabama strongly supports Alabama's "right to work" status for its benefits to economic growth, industrial recruitment, and job creation. To this end, BCA works to protect Alabama's competitive edge nationally and internationally by fighting efforts to create a state minimum wage above the national minimum wage and opposing attempts to negatively influence the current balance between business and labor as it relates to unionization and contract negotiations. Employer-subsidized lockouts, whereby locked-out employees are eligible for unemployment compensation, prolong labor disputes and have a chilling effect on industrial recruitment.*

### BCA Supports

- Legislation that would prevent local governments from setting wage, leave, or other labor policies for private employers at levels higher than those already required by the state and federal governments.
- Efforts which promote cost savings in the administration of workers' compensation programs.
- Efforts which address Alabama's prescription drug abuse problem.
- Legislation that allows for meaningful drug and alcohol testing of employees.
- Legislation that would decrease fraud in unemployment and workers' compensation claims.

- Workers' training initiatives that assist businesses in the employment of a trained workforce.
- Monitoring the Alabama Departments of Revenue and Labor regarding efforts to reclassify independent contractors as employees and requesting clear and consistent guidance from ADOL and ADOR to Alabama employers on this issue.
- Ensuring that immigration laws impacting Alabama businesses do not impose additional burdens on, or penalize, Alabama employers.
- Legislation or rules that are consistent with the provisions of H.R.1982, the Medicare Secondary Payer and Workers' Compensation Settlement Agreements Act, which establishes clear standards and guidelines for an administrative process that provides reasonable protections for injured workers and Medicare.

### BCA Opposes

- Expanding state unemployment compensation benefits that incur increased taxes on Alabama business.
- Any efforts to overturn Alabama's "right to work" status.
- Legislation that attempts to limit employers' freedoms to implement "employment-at-will" policies.
- Any legislation that would infringe on employers' right to provide a safe workplace by restricting unauthorized firearm possession on company property and/or creating any new causes of action against employers because of such policies.

## Small Business

*The Business Council of Alabama recognizes that small businesses provide the majority of Alabamians' jobs and that protecting entrepreneurial efforts sustains job growth. BCA supports protecting economic development funds currently allocated for small business development programs and encourages recognition of, and support for, entrepreneurial enterprises as essential to the state's economic development program. The BCA will not support unjustified reallocation of existing economic development funds already committed for specific projects.*

### BCA Supports

- Establishing a cabinet-level position in the Executive branch for a small business advocate to oversee and coordinate the creation and expansion of small business in Alabama.
- Educating its members on the implementation of the Affordable Care Act by hosting meetings, webinars, and seminars, and hosting other educational outreach meetings.
- Legislation that defines "Small Business" as a business entity, including any affiliates that are independently owned and

operated and employ fewer than 100 full-time employees.

- Evaluating and examining, in conjunction with the BCA's Health Committee, initiatives that aim to address the bottom-line challenge of rising health care costs.
- Forming coalitions with associations and other groups to bring more awareness and focus on resolving the challenges that threaten the economic viability of small businesses.
- Workers' training initiatives that assist businesses in the employment of a trained workforce.
- Legislation that establishes state small business procurement goals/set-asides that are in line with those of the federal government.
- Legislation that encourages investment in early stage, innovative, wealth- and job-creating businesses that will remain headquartered, along with the majority of its workforce, in the State of Alabama.
- Legislation that establishes a small business revolving loan fund supported by tax credits for participating financial institutions, modeled after a similar law in Tennessee.
- Legislation that expands opportunities for the New Markets tax credits, to increase the individual project cap (currently \$10 million) and the aggregate cap (currently \$20 million).
- Raising awareness about the efforts of

the Alabama Departments of Revenue and Labor to reclassify independent contractors as employees and requesting clear and consistent guidance from ADOR and ADOL to Alabama employers on this issue.

- Researching legislation that provides for the Alabama Departments of Revenue and Labor to establish a voluntary classification settlement program that parallels the Internal Revenue Service's program.
- Monitoring small business government contracts to ensure that such government contracts are awarded to small businesses instead of subsidiaries of large companies.
- Legislation to provide for the carry-forward of capital credits on capital projects of less than \$100 million of investment and that create fewer than 100 new jobs.
- Legislation to provide for a tax credit or tax deduction for contributions made to a Health Savings Account.

### BCA Opposes

- New state and local laws, regulations, or ordinances that negatively impact small businesses by mandating costly or onerous compliance requirements, particularly those involving labor issues already regulated at the federal and state levels such as immigration, the minimum wage, and leave/benefits policies.



**TOP:** BCA board of directors member Greg Powell, president and CEO of fi-Plan Partners, gave an informative speech on *Trends Affecting Alabama Small Businesses*.

**BOTTOM:** BCA board member Jim Page, CCE, is president and CEO of the Chamber of Commerce of West Alabama and the 2014 Chairman of the Chamber of Commerce Association of Alabama. Page updated Tax and Fiscal Policy Committee members on *Investing in Alabama's Infrastructure*.

## Tax & Fiscal Policy

*In keeping with long-standing Business Council of Alabama policy, should any tax or tax reform initiatives be proposed, the BCA will not consider supporting such legislation or regulation unless it is applied fairly without levying a disproportionate burden on any individual segment of Alabama's economy. Any tax reform proposal must be tied to governmental accountability and the elimination of wasteful spending. It is further the*

*policy of the BCA that taxes and regulatory fees be properly aligned such that they are commensurate with the actual costs of performing the necessary day-to-day functions of the affected state agencies.*

### BCA Supports

- Streamlining and simplifying the sales/use tax system so that in-state and out-of-state retailers are on a level playing field and



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implementing a unified audit process to stop businesses from being audited by the Alabama Department of Revenue, and then by cities, counties, and private auditing firms for the same tax and same tax periods.

- Legislation to provide for a Research and Development tax credit parallel to the federal R&D credit, with an extra incentive if a qualified research institution performs the research.

- Coordinating with other stakeholder organizations to develop proposals, including a multistate compact among the Southeastern states, to increase compliance with Alabama's sales and use tax laws by Internet and other out-of-state vendors.

- Legislation to provide for the carry-forward of capital credits on capital projects of less than \$100 million of investment and that create fewer than 100 new jobs.

- Reforming state-county business license statutes to provide a simpler and more uniform process for businesses to apply and receive a business license.

- Monitoring efforts to regulate and set minimum standards for individual tax preparers.

- Increasing Alabama's public investment in transportation infrastructure to sustain and promote economic growth, job creation, quality of life, and public safety.

- Effective and accountable proposals for economic development incentives for the recruitment and retention of business and industry.

- Reauthorization and extension of proven economic development incentives and tax credits, including the Historic Tax Credit, the New Markets Tax Credit, and the

Certified Capital Company ("CapCo") Tax Credit.

- Legislation conforming Alabama tax return due dates to new federal (IRS) tax return due dates.

- Researching efforts to simplify Alabama's income tax code.

- Reducing the administrative burden and streamlining the process by which non-profit organizations that are exempt from paying sales and use tax receive their certificate of exemption from the Alabama Department of Revenue and file information returns.

- Efforts to clarify the exemption from the Alabama business privilege tax for any limited liability company that is wholly owned by a tax-exempt organization.

## BCA Opposes

- Establishing unitary combined reporting in Alabama.

- Any attempts by state taxing authorities to require disclosure, beyond those made in federal income tax returns, for uncertain tax positions or tax shelter items. Specifically, the BCA opposes any state-specific disclosures.

- State and local efforts to authorize and fund government-owned broadband networks that would directly compete with the private sector outside of the jurisdiction allowed under current law, which would create an un-level playing field.

- The unilateral expansion of existing taxes and revenue measures through the regulatory process and/or agency interpretations of existing laws beyond the constitutional and statutory authority of the agency or regulatory body. **TBADV**

## THE BUSINESS ADVOCATE

The Business Advocate is published by the Business Council of Alabama, Alabama's foremost voice for business. The BCA is a non-partisan statewide business association representing the interest and concerns of three-quarters of a million working Alabamians through its member companies, and is Alabama's exclusive representative to the National Association of Manufacturers and the U.S. Chamber of Commerce. For information on becoming a member of BCA, contact Elaine Fincannon, 334.240.8749, or elainef@bcatoday.org. For more information, visit [bcatoday.org](http://bcatoday.org).