



THE BUSINESS ADVOCATE

★ ★ ★ ★ ★ 2015 STATE LEGISLATIVE AGENDA ★ ★ ★ ★ ★

As Alabama's foremost voice for business, the Business Council of Alabama is a non-partisan statewide business association representing the interests and concerns of nearly one million working Alabamians through its member companies and its partnership with the Chamber of Commerce Association of Alabama. The BCA is Alabama's exclusive affiliate to the U.S. Chamber of Commerce and the National Association of Manufacturers.

BCA members drive our goals, policies and actions. BCA's annual policy agendas are produced to highlight the business community's priorities and policy objectives for the upcoming session of the Alabama Legislature. The agenda is also available at www.bcatoday.org.

EDUCATION / WORKFORCE PREPAREDNESS

The Business Council of Alabama supports adopting policies and processes that ensure sound, sustainable funding for public education. BCA advocates that adequate and equitable

funding for effective public education at all levels (pre-K through Ph.D., including AIDT, ATN & Career Tech) 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 at all levels and strengthen public awareness and understanding that further educational investment is not only necessary, but also essential, in ensuring personal income growth and economic opportunity for all Alabamians. BCA contends that all education dollars go first to the classroom, including classroom educational support; e.g., textbooks, library resources, educational supplies and technologies, and that all public education funds be

appropriated to public educational entities with the exception of voluntary pre-K programs. BCA encourages its members to provide financial support for business-education collaborations such as the BEST robotics program and engage and actively participate in their regional workforce councils, workforce investment boards and career and technical education advisory boards to ensure that such bodies are employer-driven and are responsive to the training needs of local employers.



★ ★ ★ EDUCATION/WORKFORCE PREPAREDNESS ★ ★ ★



Business Education Alliance of Alabama Chairman and President Dr. Joe Morton, right, and BEA Finance Chairman Jay Love, at the annual Business Council of Alabama's Committee Days meeting, discuss progress of the BEA that was created in 2013 to enhance the quality of public education to benefit not only students but also Alabama's economy.

The BCA will actively work to:

- ◆ Fully implement the recommendations and conclusions of the Business Education Alliance's report, *Obstacles Into Opportunities*, by adopting and systematically pursuing the goal of reaching a high school graduation rate of 90 percent by 2020.
- ◆ Fully implement the Alabama Board of Education's PLAN 2020, which will drive instructional, assessment and accountability efforts toward meeting more rigorous college and career ready standards; the adoption of academic standards is a responsibility that is under the jurisdiction of the Alabama Board of Education.
- ◆ Sustain funding, as appropriate, in the FY'16 Education Budget for proven educational initiatives, such as the Alabama Reading Initiative, the Alabama Math Science Technology Initiative, the Career/Technical Education Initiative, ACCESS, Advanced Placement, the postsecondary dual enrollment program

and the Alabama Virtual Library, with a portion of the funding for each program allocated for periodic, independent evaluations according to national norms.

- ◆ Enact legislation allowing for parental options in education, including the creation of public charter schools.
 - ◆ Support a rational allocation of state funding resources among all segments of public education.
 - ◆ Continue incremental funding increases and achieve full funding over the 10-year funding plan for pre-kindergarten educational programs taught and administered by certifiably trained staff, and ensure that the programs demonstrate student academic preparedness for kindergarten through required appropriate accountability measures.
 - ◆ Maintain funding for seamless training programs for existing industries and businesses to help employees advance on technical career paths; ensure adequate numbers of trainable workers are available to "back-fill" existing jobs as experienced employees are hired and promoted by new and emerging industries.
 - ◆ Continue and maintain the regional and state workforce training development councils as the process for determining how to spend workforce training money.
 - ◆ Continue 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 under the Alabama Department of Postsecondary Education (including the ATN) and emphasizes adult education programs.
- ### The BCA will support efforts to:
- ◆ Increase the percentage of Alabama

students that complete high school, and encourage students to take more challenging courses, so that more high school graduates will be prepared to be successful in higher education or in today's technical worksites. For those who do not complete high school, the BCA supports strengthening adult education programs to ensure more adults will earn a GED.

- ◆ Create mobile, digital learning environments for every classroom.
- ◆ Encourage public high schools and institutions of higher education to promote greater understanding of personal financial management.
- ◆ Ensure high-caliber teacher training programs and administrative leader programs in colleges of education and meaningful content-specific professional development programs for classroom teachers.
- ◆ Ensure 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 post-secondary levels.

The BCA will monitor efforts to:

- ◆ Research alternative methods of compensating public education personnel 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.
- ◆ Enact legislation to provide for the appointment of all city and county superintendents of education by their local boards of education, or monitor any research related to this issue.

★ ★ ★ ★ ENVIRONMENT AND ENERGY ★ ★ ★ ★

The Business Council 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. In addition, the BCA supports adequate funding for The Alabama Department of Environmental Management (ADEM) so it may provide experienced personnel to carry out necessary services without wasteful overlap of programs.

The BCA will actively work to:

- ◆ Adequately fund the 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.
- ◆ Retain primacy for federal programs by coordinating with state regulatory agencies to obtain the necessary funds and authority to properly administer the programs and support adequate funding for the Office of the State Climatology Program.
- ◆ Ensure 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.
- ◆ Fund and gather data associated with surface water, groundwater and in-stream flows/ecosystems to provide a full understanding of the State of Alabama's water resources.



The BCA will support efforts to:

- ◆ Support fair treatment of industry through joint legislative initiatives.
- ◆ Continue the work of the Forever Wild Program.
- ◆ Ensure that state agencies are proactively involved in activities of the EPA and of 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 US Congress.

The BCA will actively oppose:

- ◆ Implementing environmental policy or regulations on the state level that would put Alabama business, manufacturing, and/or economic development at a disadvantage.
- ◆ Enacting legislation and regulations that would have a detrimental effect on existing industry and that may have a negative effect on economic development.

Trey Glenn, former Alabama Department of Environmental Management director and a member of the Business Council of Alabama's Environmental Committee, joins members at Committee Days. Glenn previously testified at a U.S. Environmental Protection Agency hearing on proposed regulations concerning carbon dioxide emissions from existing power plants. To Glenn's left are Tim McCartney, McCartney Construction Co.; David Roberson, Drummond Co. Inc.; Victor Vernon, BCA Vice President for Public Policy; and, Matt Bowden, Alabama Power Co.

- ◆ 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.
- ◆ Enacting legislation that imposes specific mandates for agencies to use certain products, formulas or analyses that would give select industries a competitive advantage over other Alabama industries.
- ◆ Changes to Alabama's water laws and regulations that are not based on a demonstrated need from a completed comprehensive statewide water assessment.

★ ★ ★ ★ 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.

The BCA will actively support efforts to:

- ◆ The passage of Medicaid reform legislation in 2013 positions 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 an 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.
- ◆ Maintain 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.

State Health Officer Dr. Don Williamson addresses members of the Business Council of Alabama's annual Committee Days meetings where the BCA's state and federal legislative policies are created. Dr. Williamson explained the new Alabama Medicaid program that champions wellness and managed care at regional centers to replace the old Medicaid system of doctor and hospital visits.

- ◆ Discuss options to better clarify the roles of "physician extenders" in the provision of primary medical care services in Alabama.
- ◆ Increase representation of payers of health care services to state health and medical boards.
- ◆ Develop innovative solutions for prescription drug coverage at a reasonable cost while opposing mandated prescription drug pricing.

The BCA will actively oppose:

- ◆ 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 be it 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 ★ ★ ★ ★



State Sen. Cam Ward, R-Alabaster, left, addresses Business Council of Alabama members during the annual Committee Days meetings in Hoover. Ward is chairman of the Senate Judiciary Committee that formulates legal issues for the state. Harold H. Kim, Executive Vice President, Legal Reform Initiatives, U.S. Chamber of Commerce Institute for Legal Reform, right, updates BCA members on the latest legal efforts. Kim is responsible for providing strategy, policy guidance, programmatic management, and leadership support for ILR's comprehensive program aimed at improving the nation's litigation climate.

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. Specifically, the BCA opposes any proposal to adopt an appointment process for selecting Alabama judges, any proposal for nonpartisan elections for judges, or any other proposal that decreases the transparency of the selection process. Partisan elections provide the voting public with a source of distinguishable information regarding judicial candidates.

The BCA supports participation and transparency in all aspects of the governmental process and, accordingly, strongly supports ethics reform that affords all persons the opportunity to participate fully and equally in the political process and all voters the opportunity



to ascertain easily and in a timely manner what persons or entities may be supporting or opposing governmental candidates or lobbying governmental officers. Specifically, the BCA 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 will actively work to:

- ◆ Reform the civil discovery process to reduce costs to litigants and the court system and to promote the just and efficient resolution of disputes.
- ◆ Reduce the filing of frivolous lawsuits through modifications to the Alabama Litigation Accountability Act and the Alabama Rules of Civil Procedure.
- ◆ Reform non-economic damages.
- ◆ Enact and revive statutes of repose that will reduce the prejudice to parties that can arise from the litigation of stale claims.
- ◆ Clarify 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.

- ◆ Ensure that manufacturers are not unfairly exposed to liability for products they neither made nor sold.

The BCA will support efforts to:

- ◆ Adopt the full Daubert standard for accepting expert testimony in Alabama courts that is consistent with the federal standard.
- ◆ Reform laws related to nuisance actions to ensure that the standards and statute of limitations for such actions do not undermine economic development efforts.
- ◆ Prohibit third-party litigation financing or efforts to provide meaningful regulation in order to protect the interests of consumers and the public.
- ◆ Establish a Business Court system that will provide a stable and reliably informed system for resolving complex business and commercial disputes.
- ◆ Establish a privilege for accountant work papers and self-critical analysis and self-evaluation activities.
- ◆ Enact legislation to amend Alabama law to ensure uniform protections for Alabama businesses and corporations.



★ ★ ★ ★ LABOR AND EMPLOYMENT ★ ★ ★ ★



Alabama Labor Commissioner Fitzgerald Washington updates BCA members on the state's labor and employment picture. Governor Robert Bentley appointed Washington as Labor Commissioner in July, effective Aug. 4, to succeed the retiring Tom Surtees. Washington worked for The Buffalo Rock Company for 15 years and became general sales manager in 2002. In 2013, Washington served as Chairman of the Chamber of Commerce of West Alabama. Bentley also appointed Washington to the Alabama Workforce Council.

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 oppose 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 unem-

ployment compensation, prolong labor disputes and have a chilling effect on industrial recruitment.

The BCA will actively work to:

- ◆ Continue to find solutions to workers' compensation medical cost issues, maintain an employer's right to choose the treating physician and second physician, and support legislation that allows for meaningful drug and alcohol testing of employees.

- ◆ Support legislation that would decrease fraud in unemployment and workers' compensation claims.

The BCA will support efforts to:

- ◆ Support workers' training initiatives that assist businesses in the employment of a trained workforce.
- ◆ Enact 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.

- ◆ Encourage the ADOL and ADOR to promptly issue joint guidance to the business community and to nonprofit organizations to confirm that their worker classification test is consistent with the IRS 20 factor test and provide some helpful examples and definitions; and support efforts to assist the agencies in developing an audit program and appeal process that does not encourage their employees to skew the result toward finding "employee" status.

- ◆ Ensure that immigration laws impacting Alabama businesses do not impose additional burdens on, or penalize, Alabama employers.

- ◆ Enact legislation or set 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.

The BCA will actively oppose:

- ◆ Expanding state unemployment compensation benefits that incur increased taxes on Alabama business.

- ◆ Legislation that attempts to limit employers' freedoms to implement "employment at will" policies.

- ◆ Any legislation that would infringe on an employer's 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.

The BCA will actively work to:

- ◆ Establish 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
- ◆ Educate its members on the implementation of the Affordable Care Act by hosting meetings, webinars, seminars and hosting other educational outreach meetings.
- ◆ Enact legislation that defines "Small Business" as a business entity, including any affiliates that are independently owned and operated and employ fewer than 100 fulltime employees.
- ◆ Evaluate and examine, in conjunction with the BCA's Health Committee, initiatives that aim to address the bottom-line challenge of rising health care costs.
- ◆ Form coalitions with associations and other groups to bring more awareness and focus on resolving the challenges that threaten the economic viability of small businesses.
- ◆ Support workers' training initiatives that assist businesses in the employment of a trained workforce.

The BCA will support efforts to:

- ◆ Enact legislation that establishes state small business procurement goals/set-asides that are in line with those of the federal government.
- ◆ Enact 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.
- ◆ Provisions of the recently enacted immigration law to ensure that immigration laws impacting Alabama businesses do not impose additional burdens or penalties on Alabama employers.
- ◆ Enact 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.
- ◆ Encourage the ADOL and ADOR to promptly issue joint guidance to the business community and to nonprofit organizations to confirm that their worker classification test is consistent with the IRS 20 factor test and provide some helpful examples and definitions; and support efforts to assist the agencies in developing an audit program and appeal process that does not encourage their employees to skew the result toward finding "employee" status.
- ◆ Enact legislation that establishes a small business revolving loan fund supported by tax credits for participating financial institutions, modeled after a similar law in Tennessee.
- ◆ Enact 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).



William Cummins, executive state director of the Alabama Small Business Development Center Network, addresses BCA members at the annual Committee Days meeting. The network provides management and technical assistance to existing small businesses and aspiring entrepreneurs in the areas of planning, research, marketing, financing, government procurement, and international trade. Cummins is a 30-year veteran of commercial banking, serving in international trade finance with Southeastern U.S. banks.

The BCA will monitor:

- ◆ Small business government contracts to ensure that such government contracts are awarded to small businesses instead of subsidiaries of large companies.
- ◆ That, should legislation be enacted that creates and sets operating guidelines for an Alabama Healthcare Insurance Exchange, it will: focus on providing small businesses and individuals an option for purchasing health care insurance; base operations on free market principles; encourage competition within the market; provide transparency of quality measures to consumers; include business representation within the administrative oversight structure; avoid duplication of current regulatory authority; and, ensure the stability and reliability of the state's health care insurance market.

The BCA will explore:

- ◆ 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.



★ ★ ★ ★ TAX AND FISCAL POLICY ★ ★ ★ ★

In keeping with long-term Business Council of Alabama policy, should any tax or tax reform initiatives be proposed, BCA will not consider supporting such legislation 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.

The BCA will actively work to:

- ◆ Streamline and simplify our sales/use tax system so that in-state and out-of-state retailers are on a level playing field and implement 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 income tax credit parallel to the federal R&D credit, with an extra incentive if a qualified research institution performs the research.

The BCA will support efforts to:

- ◆ Enact 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.

- ◆ Encourage the ADOL and ADOR to promptly issue joint guidance to the business community and to nonprofit organizations to confirm that their worker classification test is consistent with the IRS 20 factor test and provide some helpful examples and definitions; and support efforts to assist the agencies in developing an audit program and appeal process that does not encourage their employees to skew the result toward finding "employee" status.

- ◆ Coordinate 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.

The BCA will oppose:

- ◆ Establishing unitary combined reporting in Alabama.
- ◆ Any measure seeking to impose an increased tax burden that targets a specific industry or category of consumer goods or services.
- ◆ 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, we oppose any state-specific disclosures.



Rep. Steve Clouse, chairman of the House Ways and Means General Fund committee, spoke to BCA's Tax and Fiscal Policy Committee during BCA's 2014 Committee Days.

The BCA will monitor efforts to:

- ◆ Enact anticipated legislation that will provide additional authority for economic development incentives for the recruitment and retention of business and industry, and which may include revenue proposals to close any deficits in the State budgets.
- ◆ Enact legislation that would reform the state-county business license statutes.
- ◆ Regulate and set minimum standards for individual tax preparers.
- ◆ Issue regulatory amendments related to the calculation and proper utilization of tax credits for tax payments to other states and foreign governments by Alabama residents.
- ◆ Enact 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.

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