



Office of Senate President Pro Tempore Del Marsh
Press Clips
Tuesday, July 08, 2014

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[BP asks judge for repayment of overpaid oil spill claims -- with interest \(AL.com\)](#)

MOBILE, Alabama -- BP asked a federal court judge Friday to require businesses who it claims were overpaid money from the oil spill fund, pay back what they owe with interest.

A motion filed in its ongoing case in the U.S. District Court for the Eastern District of Louisiana details the international energy company's claim, disputing payments of a number of business owners.

The Financial Times first reported on BP's latest legal maneuver, which, if granted, would ensnare an Alabama contractor.

The company singled out a number of other businesses as well, identifying them by a partially redacted number. These claims, BP contends, were overpaid "as a result of application of the erroneous matching policy."

In addition to restitution, the motion also requests that interest be paid back to the company, and that certain recipients of economic payments be barred from spending the money.

This is the latest move in the company's attempt to rewrite the terms of the settlement agreement that governs how individuals who were economically injured after the 2010 Deepwater Horizon oil spill are compensated.

An appellate court and Louisiana District Judge Carl Barbier denied motions to change the criteria used by Claims Administrator Patrick Juneau. BP has said it plans to appeal the decisions to the U.S. Supreme Court.

[Beeker, Dunn scramble to raise cash for second round in July 15 runoff election for PSC Place 2 \(AL.com\)](#)

With the July 15 runoff election approaching, the two Republican candidates for Public Service Commission, Place 2, are clearly relying on a strong financial effort to carry each through to final victory.

But one candidate is clearly leading in the total money race.

Republican Chris "Chip" Beeker of Eutaw has raised more than \$470,000 since he founded his committee last year.

Since he placed first in the June 3 Republican primary, Beeker has raised \$105,000, mostly in the form of a \$100,000 loan from his farm business, Beeker Catfish and Cattle Farm Inc.

Since his campaign kicked off in mid-2013, Beeker has raised \$239,450 in itemized donations, and has loaned his campaign \$170,000. Since the June 3 primary, donations to Beeker include \$5,000 from Farm PAC, the political action committee of the Alabama Farmers Federation.

His opponent, incumbent Commissioner Terry Dunn of Gadsden, admits he is not raising as much money as his challenger. Dunn said he has been heavily reliant on loans.

Since his campaign kicked off in 2013, Dunn has raised \$164,000, including \$70,000 in loans and \$94,000 in itemized individual donations.

Terry Dunn

Terry Dunn, incumbent PSC Place 2 official

Since the June 3 primary, Dunn has loaned himself \$6,700. He also received \$500 from Burlington Northern Sante Fe Railway Corp.

As of Friday, Beeker had \$60,000 on hand, while Dunn had \$62,000, according to the Alabama Secretary of State's office.

On June 3, Beeker came in first in a four-way race for the Place 2 seat on the PSC.

Beeker won 133,285 votes, or 39 percent of the vote. Dunn won 111,079, or 33 percent of the vote. Two other Republican candidates absorbed the rest of the vote.

Because neither man got more than 50 percent of the vote, they advanced to the July 15 runoff.

The race has been marked by charges Dunn is too soft on critics of coal, with Beeker calling him "weak-kneed" and afraid to stand up to President Obama and the Environmental Protection Agency.

Dunn has fired back, saying Beeker is the "chosen one" of Alabama Power, and that Beeker supports a rate increase that will favor Alabama Power.

(Alabama Power says it does not support PSC candidates.)

There is no Democratic candidate on the ballot in November, so the July 15 runoff may decide the next Place 2 commissioner for the next four years.

[Where Alabama ranks on the list of states with most gun violence \(AL.com\)](#)

There were more than 16 gun-related deaths per 100,000 residents in Alabama in 2011, a figure that lands the state near the top of the list for gun violence in the U.S.

Wall Street 24/7 recently used the most recent data from the Centers for Disease Control showing the number of gun-related fatalities, including homicides, suicides and accidents in each state. The highest number of gun-related fatalities was reported in Louisiana – almost 19 per 100,000 residents. The lowest number was in Rhode Island, where firearms accounted for just 3 deaths per 100,000 residents.

The data showed while homicides accounted for less than half of all firearm-related deaths in Alabama, the homicide rate was among the highest in the nation. There were more than six gun-related homicides per 100,000 residents in Alabama, more than every state except Mississippi and Louisiana.

From 2002-2011, there were 7,713 firearm deaths in Alabama, the 15th highest figure in the country. The violent crime rate in 2011 was 420 per 100,000, the 16th highest in the U.S.

The states with the most deaths from gun violence are, shown with firearm death rate per 100,000 residents:

Louisiana – 18.8
Mississippi – 17.9
Alaska – 16.9
Wyoming – 16.7
Oklahoma – 16.6
Montana – 16.3
Arkansas – 16
Alabama - 16
New Mexico – 15.1
South Carolina – 14.8

Captive constituents: Prison population beefs up some Alabama districts (Anniston Star)

When Talladega City Councilman Joseph Ballow goes up for re-election, he can be sure that more than a quarter of the residents in his ward won't show up at the polls — because they're behind bars. One of five councilmen in this city of approximately 16,000, Ballow represents a 3,121-person ward that includes Talladega Federal Correctional Institution, a prison with 939 inmates.

"They can't vote, they can't carry a firearm, and I'm not interested in being their representative," Ballow said.

Ballow isn't alone. As the nation's prison population has burgeoned in recent decades — there were about 2.2 million Americans in prison or jail in 2012, around twice the number jailed 25 years ago — some political districts are becoming packed with inmates. They often count toward the total population when district lines are being drawn, but in most cases, they can't vote.

That phenomenon has been a matter of growing concern for some prison reform advocates, who see the potential for "prison gerrymandering" — the use of prisoners to beef up the numbers when political districts are redrawn.

"We think of one person, one vote as the rule," said Aleks Kajstura, legal director for the Prison Policy Initiative, a nonprofit group that advocates for a new way of districting prisons. "But when you pad out the population with inmates, you're giving people in some parts of the country more political power than others."

Shifting the center

For decades, the Census bureau has counted inmates as residents of the communities where they are incarcerated. Those numbers were used to calculate population for redistricting purposes.

Few complained, when the numbers of incarcerated Americans was relatively small. The growth of the prison population, Kajstura says, is creating a shift in political representation. Cities produce more prisoners, but those inmates are often incarcerated in rural areas, boosting the population numbers there — even though most states, including Alabama, don't allow felons to vote.

The trend doesn't bother state Rep. Berry Forte, D-Eufaula.

District 84, where Forte lives, had a nearly 50-50 mix of black and white voters when Forte was last elected in 2010. Now, after post-census redistricting, it's 54 percent black, he said.

"I'd hoped for a lot more," Forte said.

But many of the people in that district won't be voters. District 84 is home to three state prisons — Ventress, Easterling and Bullock — with a total population of 4,797. With about 47,000 people in each House district, that means approximately 10 percent of Forte's constituents are inmates.

Still, Forte said he wasn't worried about the effect the prisons — which were in the district before 2010 — have on the balance of voters. Nor was state Sen. Billy Beasley, D-Clayton, whose district covers the same prisons that are in Forte's district.

"Honestly, with turnout as low as it is, I don't think it makes much difference," Beasley said.

The architect of Alabama's post-2010 redistricting plan, Sen. Gerald Dial, R-Lineville, said the state did the best it could with the numbers it has.

"You have to count them somewhere," Dial said of the prison inmates.

Dial noted that the redistricting plan was cleared by the U.S. Department of Justice before it went into effect, something Alabama had to do under the Voting Rights Act. The pre-clearance requirement was established to keep areas with a history of voter discrimination from using redistricting to dilute the influence of black voters.

That pre-clearance requirement was struck down by the U.S. Supreme Court last year, in response to a lawsuit by Shelby County.

"Next time, they'll have to do it without the Voting Rights Act, but that won't be until 2020," he said.

Boon or burden?

Alabama may not be able to wait until 2020 to redraw district lines, however. A group of Democratic lawmakers has sued to get Dial's redistricting map thrown out. The U.S. Supreme Court is expected to hear the case later this year.

The lawsuit alleges that the redistricting plan packs black voters into a few safely Democratic districts, cutting off their chance to influence other districts.

James Blacksher, attorney for the Democratic lawmakers, said the group looked at the role of prisons in the redistricting plan.

"Our demographer did look at the incarcerated population," he said. "There were no districts where it seemed to make a large difference in terms of the black-white breakdown."

Blacksher said the prison issue could come up in a new round of redistricting if the high court throws out the district map.

Cities draw their own district lines, which means Talladega's Ballow will have to wait until after 2020 to get the inmates out of his ward. He said he's worried that the federal government will push to allow felons the right to vote — something that would flood his ward with inmate voters.

"The attorney general is trying to shove this down our throats," Ballow said.

U.S. Attorney General Eric Holder did say in a February speech that he believed states should restore the voting rights of ex-felons, but only after they leave prison. In Alabama, ex-inmates can apply to have their voting rights restored, but it doesn't happen automatically.

The inmate ratio in Ballow's district could have been higher, according to officials at Alabama State University, which did Talladega's latest redistricting.

The federal prison stands next to a federal work camp with 381 inmates. Both are within Ward 5, according to the city's ward maps, but the Census Bureau counted those inmates as living in a census tract just outside the ward, ASU officials say.

City and state officials say Talladega politicians typically see the prison as a burden.

"The question has always been, 'Do we have to take it?,'" said Dawn Landholm, principal planner for the East Alabama Regional Planning and Development Commission, which has drawn district lines for many local cities, including Talladega's ward lines after the 2000 Census.

Landholm said council members tend to feel cheated if they get a district that doesn't include lots of actual registered voters. Council members have often asked if they can count only the voting-age population in drawing districts, she said.

"We've had to tell them they can't just draw the district around voters," Landholm said. "You have to take everybody."

Changing the count

In recent years, four states — California, Delaware, Maryland and New York — passed laws that allow redistricting officials to use adjusted counts to consider inmates as residents of the cities where they

lived before their arrest. Other states require local governments to ignore prison populations in drawing district lines.

The Prison Policy Initiative has been asking for a bigger change. They want the Census Bureau itself to change the way it counts inmates, clearing up the issue for all states. In congressional hearings last year, bureau director John Thompson indicated that change wasn't off the table in the plans for the 2020 Census.

Talladega City Manager Brian Muenger said he's heard of other cities that discount the inmate population when drawing districts. He said he'd be open to proposing a similar option for Talladega. "If there's evidence that it does distort the process, I'd consider it," Muenger said.

School boards worried about nutrition standards (Montgomery Advertiser)

Alabama school administrators want more time and flexibility to meet new federal nutrition standards, Macon County school board member Katy Campbell said Monday.

Congress, reacting to complaints from local school systems, is considering legislation to give some schools an extra year to comply with new rules requiring school meals to contain less fat, sugar and sodium and more whole grains, fruits, vegetables and proteins.

On Monday, the National School Boards Association said the 6-cent-per-meal reimbursement for school districts to meet the new standards isn't enough and some schools are losing money.

"In areas such as Alabama, with high poverty areas, we're going to have some problems with the finances," Campbell, president of the Alabama Association of School Boards, told reporters Monday.

About 90 percent of school districts are successfully implementing the new rules, more of which take effect July 1, according to the U.S. Department of Agriculture.

Nutrition advocates, including first lady Michelle Obama, have lobbied against giving certain districts a waiver, saying it undercuts the original intent of the Healthy, Hunger-Free Kids Act, enacted in 2010. The law was designed to make sure kids get healthier food at school and bring down childhood obesity rates.

But school budget officers say fresh fruits and vegetables cost more, and too many children are tossing the healthier food.

Campbell recalled that whole wheat hot dog buns went into the trash after Macon County implemented healthier standards several years ago.

"It probably took one or two years to get children acclimated to the new foods ... but now they eat them," she said.

She said Macon County will be in compliance with the new USDA standards and the system's food service program is running a surplus. But if the standards are expanded to include food served outside regular school hours, compliance could be more difficult, she said.

Campbell said she is worried that switching from low-fat chocolate milk to white milk will cause some students to forgo milk altogether. And she'd like the flexibility to offer larger portions, especially to athletes.

"In Alabama, football is really, really big and those portion sizes are not going to be sufficient for that student," she said.

Several months ago, U.S. Rep. Robert Aderholt, R-Haleyville, added the one-year waiver to legislation he oversees as chairman of the House Appropriations Subcommittee on Agriculture. Aderholt says the temporary waiver is only for schools that can document six months of operating losses.

The legislation, which is pending, has set off a furious debate on Capitol Hill over whether the new nutrition standards are too prescriptive and rigid.

The National School Lunch Program cost \$11.6 billion in fiscal 2012 and serves more than 31 million children a day, according to the Agriculture Department. The 2010 Healthy Hunger-Free Kids Act raised the nutrition standards for the program in response to growing health problems related to children who were overweight or obese.

"Alabama school systems will do what they can to meet the mandates, certainly, but the financial struggles of some school systems in this state won't make that an easy venture," said Denise Berkhalter, spokeswoman for the Alabama Association of School Boards.

[New Alabama law to wipe out criminal records goes into effect July 7 \(AL.com\)](#)

Alabama residents who have been arrested, but not convicted of a crime, can soon file to have their arrest record wiped away under a new law set to go into effect July 7.

It requires a \$300 administrative fee and court costs still to be determined by state court officials.

[Here's a full rundown of how the expungement law will work in Alabama]

Billboards and radio ads touting "zap my record" and the like have sprung up, but so far Huntsville area law firms who are actively offering the service to help clear someone's record say many residents don't seem to be aware of the new law.

Huntsville attorney Phil Price, whose firm Price & Flowers established the zapmyrecord.com website, said they've seen a response to the advertising, but for many who've called, the law doesn't apply.

"A lot of people are calling that have gotten convictions and they don't understand the case needs to be resolved in their favor," Price said.

But plenty of people would benefit, if they understood the process, said Huntsville attorney Russell Crumbley, whose firm is advertising expungement assistance.

"In my opinion in the north Alabama area there are thousands and thousands of people who would benefit from this new law," Crumbley said "So many people who've been arrested have been able to get the charges dismissed, but they still end up having that arrest record hanging over their head."

Longtime Huntsville criminal defense attorney Mark McDaniel said the law is long overdue and his firm is already assisting clients hoping for an expungement.

"Those records there can certainly have impact on a person for rest of their life," McDaniel said. A person can be falsely accused, but that arrest record is still there. There are a lot of people who think if you get arrested you've done something, even if you're found not guilty."

"This is a good law."

The expungement law passed in April spells out the procedure a person must go through in an Alabama circuit court in order to have their record wiped out and also notes that the charge is "deemed never to have occurred."

It also explains what will be expunged: Arrest records, booking or arrest photos, index references for public records searches and other documents or electronic files concerning the arrest or charge.

The expungement law does not allow the erasing of violent felony charges and it does not authorize the wiping of a record where a person has been convicted.

The act allows for expunging non-violent felony charges, in the event of a no-bill by a grand jury, a dismissal of the charge with prejudice, a finding of not guilty, and one year after completion of a diversion program like drug treatment, mental health treatment or veterans court.

A person is also eligible, if the charge was dismissed without prejudice more than five years ago, has not been refiled, and the person has not been convicted of any other felony or misdemeanor crime, any violation, or any traffic violation, excluding minor traffic violations, during the previous five years.

Price said there are still procedural steps to be determined, including what the filing fee will be within the circuit court. He said the Alabama Administrative Office of Courts is expected to set that rate. Efforts to reach AOC officials Friday were unsuccessful.

The basic process includes the gathering of certified copies of arrest records and other materials. Price said the Alabama Criminal Justice Information Center is the source for the certified arrest records, but that procedure is also still being worked out, including the center establishing a "certified" stamp for those records.

Marc Sandlin, chief assistant district attorney for Madison County, said he expects it to be a fairly simple process.

The law provides that if someone files for an expungement the DA's office where the charge was issued has 45 days to object. The DA's office is also expected to notify any alleged victims in the case. If there is no objection, the circuit court can issue the expungement order without a hearing.

If there is an objection, the judge will set a hearing at least 14 days after the objection is filed.

Sandlin doesn't anticipate many objections.

"I can't imagine we'd ever object if somebody qualifies for this," Sandlin said.

Price said the law also contains some mixed language that will need to be sorted out over time. He said the measure contains language that both grants a judge discretion and later notes if the court is satisfied the petitioner has met the requirements, the expungement shall be granted.

Crumbley said another wrinkle in the law deals with how a case is dismissed.

For instance, a case that is nolle prossed -- where the prosecution formally tells the court it is no longer pursuing the case -- requires a two-year wait before an expungement can be sought. But, a dismissal with prejudice -- meaning it won't be brought up again -- has no time lag for expungement.

McDaniel said in more than 30 years practicing law he's never seen a case that's been nolle prossed brought back up by prosecutors.

Crumbley argues a nolle prosee and the payment of court costs is effectively a dismissal without prejudice, but it doesn't read that way in the record. He said lawyers are aware of that division and are now trying to have charges dismissed with prejudice to address the two-year lag.

"Who's really going to benefit from this is anybody arrested for anything they don't want a potential employer to know about," Crumbley said. "'Have you ever been arrested?' is on the job application. A misdemeanor theft, even with a felony drug charge, you have a chance to go to rehab and get the case dismissed. But it's a bad black eye when they try to get a job, it makes them look like something they are not.

"The only way to make go away to it go away is to file a petition for an expungement."

If Alabama were a country, it would have the world's highest incarceration rate (Yellowhammer News)

If Alabama were a country, it would have a higher percentage of its citizens in jail than any other country in the world.

According to the Prison Policy Initiative, a criminal justice think tank, 861 out of every 100,000 Alabamians are in jail. The U.S. as a whole incarcerates 716 people for every 100,000 residents, far ahead of second-place country, Cuba, which incarcerates 510 out of every 100,000 residents.

Alabama is actually one of 13 states in the U.S. that has an incarceration rate higher than any country. But it's not only the state's total prison population that has proved costly and problematic, it's the fact that Alabama also has the most serious prison overcrowding problem in the U.S. It's so bad

that the state could be running the risk of federal courts stepping in and ordering the haphazard release of thousands of prisoners.

California serves as an example of what can happen when the federal government is forced to intervene.

In the 2011 Supreme Court case *Brown v. Plata*, the Court required the State of California to remove 46,000 criminals from its prisons by forcing The Golden State to cut its prison population to 137.5 percent of "design capacity."

The Public Policy Institute of California found that property crime increased by 7.6 percent the year after the mass releases. Car thefts rose almost 15 percent. In short, 24,000 more people had their car stolen in California in 2012 as a result of the state not being able to get its prison overcrowding problem under control.

Alabama's prisons are at roughly 190 percent capacity, 50 percent higher than the level the Court mandated for California. The Yellowhammer State currently houses over 25,000 inmates in facilities designed to hold approximately 13,000.

Alabama has also seen a 95 percent increase in the cost per inmate over the last two decades. As of 2008, the state was spending \$15,178 per inmate each year. That's \$41.47 for each inmate every single day.

The top officials in all three branches of Alabama's state government came together in early June to announce the launch of the Justice Reinvestment Initiative (JRI), a comprehensive study of the state's criminal justice system aimed at finding solutions to the serious issues facing Alabama's underfunded, overcrowded prisons.

"The Justice Reinvestment Initiative is an opportunity for Alabama to examine the criminal justice system in order to reduce prison crowding and increase public safety," said Gov. Robert Bentley. "The number of inmates incarcerated in Alabama has significantly increased over the last decade. With the Justice Reinvestment Initiative, we have an opportunity to examine areas to maximize efforts in the criminal justice system that will benefit our Department of Corrections. By participating in the study, we will have a detailed understanding of drivers behind Alabama's prison population growth and identify ways to reduce growth."

Alabama Governor Robert Bentley talks with Chief Justice Roy Moore, near right, and Department of Corrections Commissioner Kim Thomas, far right, Speaker of the House Mike Hubbard, near left, and state Senator Cam Ward in his Capitol Office on Tuesday, June 10, 2014. Governor Bentley met with

the group before announcing the state's participation in the Justice Reinvestment Initiative. The program, coordinated by the Council of State Governments, will enact reform across the criminal justice system. (Photo: Governor's Office, Jamie Martin)

Alabama Governor Robert Bentley talks with Chief Justice Roy Moore, near right, and Department of Corrections Commissioner Kim Thomas, far right, Speaker of the House Mike Hubbard, near left, and state Senator Cam Ward in his Capitol Office on Tuesday, June 10, 2014. Governor Bentley met with the group before announcing the state's participation in the Justice Reinvestment Initiative. The program, coordinated by the Council of State Governments, will enact reform across the criminal justice system. (Photo: Governor's Office, Jamie Martin)

The JRI will be spearheaded by nearly 30 state leaders, known collectively as the Prison Reform Task Force. The group, which is chaired by State Sen. Cam War (R-Alabaster), held its first meeting earlier this month, with plans to begin examining criminal justice trends, review successful approaches used by other states facing similar challenges and identify key areas to explore during the study.

"This is the biggest challenge our state has ever faced," Ward said. "Alabama has to start being not only tough on crime but we have to be smart on crime. This effort represents a unified effort by all three branches of government to accomplish this goal"