

Final Report on the 1997 Regular Session

The Alabama Legislature adjourned sine die at midnight on Monday, May 19, 1997. Both the General Fund and the Education Budgets received final passage on the last day.

A number of bills of interest to cities and towns have been passed this session. During the session, a total of 1832 bills were introduced and 426 received final passage. By comparison, in 1996, 1793 bills were introduced and 454 received final passage. Many of those receiving final passage were appropriation bills or local bills affecting a single county or municipality.

Final Status of the League Legislative Package

The 1997 Regular Session was successful for the League and its members. The Legislature approved several proposals in the League's 1997 Legislative Package. Those League bills that received final approval are:

Alabama Drinking Water Finance Authority (S. 351 by Sen. Dial, Act 97-415). This League priority bill authorizes the incorporation of the Alabama Drinking Water Finance Authority and authorizes the Authority to make loans to certain public bodies in the state and to issue bonds. The bill creates a state drinking water revolving fund to receive federal grants, proceeds of bonds and other amounts. The bill provides that ADEM shall be the agent of the authority in implementing the provisions of the act. The program is designed to operate in the same manner as the highly successful and praised wastewater revolving loan fund.

Bids - Local Preference Zones (H. 275 by Rep. McMillan - Act 97-225). A provision in this bill relating to public works contracts gives local governments more authority as to giving the 3% local preference for purchases of personal property. Now a city or town can choose a local preference zone in which to grant the preference. The local preference zone may be either the corporate limits, the boundaries of the county or the boundaries of the SMSA in which the municipality is located.

Correction of Sales and Use Tax Laws (H. 1012 by Rep. Starkey - Act 97-301). Due to a loophole in the current state sales and use tax laws, certain sales of personal property to Alabama residents may be exempt from both Alabama sales and use tax. The State Department of Revenue and many local governments have recently received many refund requests as a result of this newly-discovered loophole. Legislation to clarify the law and close the loophole was added late in the session to our package. This much needed bill clarified that such sales are subject to either sales tax or use tax.

Wastewater Funding (H. 98 by Rep. Fuller -- **VETO**). The general fund budget contained an appropriation to be used as matching funds for the State Revolving Loan Fund for Wastewater Treatment.

The League wishes to thank the following persons for sponsoring or handling League bills

this session: Senators Gerald Dial; George Clay; Tommy Ed Roberts; Tom Butler; Ted Little; Hinton Mitchem; Charles Langford; Wendell Mitchell; and Representatives Steve Clouse; Mike Hill; Walter Penry; Gerald Allen; Marcel Black; Nelson Starkey; Bill Dukes; Steve McMillan; Laura Hall; Lesley Vance; and Joe Carothers . Additional thanks go to Speaker Jimmy Clark, Speaker Pro Tem Seth Hammett, Lt. Governor Don Siegelman; and President Pro Tem Dewayne Freeman.

Several bills in the League package were not approved this session including bills relating to unfunded state mandates, police jurisdiction, new annexation procedures, abatement of weeds, abatement of dilapidated buildings, validation of certain municipal elections, joint city-county powers, purchase prices on deeds, and open meetings. Many of these measures will resurface in future sessions.

Status of Dangerous Legislation

Many bills considered during the 1997 Regular Session were deemed dangerous to the interests of municipal government. We are happy to report that those measures deemed most dangerous to municipalities failed to pass this session. Those bills included measures relating to requiring written responses to firefighter union proposals, governmental "takings", law officer and firefighter stress, limiting the occupational tax to municipal residents, law officer due process, initiative, referendum, exemption of food purchases from state sales and use taxes, local elected positions becoming appointed positions, blind vendor licensing, prohibiting polygraph testing of potential employees, and requiring local fuel taxes to be used exclusively for street and road purposes.

General Bills Passed

State Acts & Resolutions (S. 10 by Sen. Hale - Act 97-585). This bill provides that the Secretary of State would retain the number of copies of acts and resolutions enacted each session necessary to provide for required distribution and would adjust the allocations to certain recipients.

Welfare Reform - New Hires (S. 51 by Sen. Amari - Act 97-228). This bill establishes within the Department of Industrial Relations a State Directory of New Hires. This bill was a part of the welfare reform efforts.

Retirement - Prior Service Credit (S. 54 by Sen. Roberts - Act 97-300). To provide a system for the purchase of service credit in the Employees' Retirement System of Alabama by public officials where such purchase has been authorized by local constitutional amendment.

Alarm Systems (S. 57 by Sen. Amari - Act 97- 711). To provide for the licensing and regulation of (1) persons or business entities engaged in the installation or servicing of alarm systems, (2) persons or business entities engaged in the installation or servicing of fire detection, fire alarm, or fire communication systems, and (3) persons providing locksmith services through

state boards.

Welfare Reform - Child Support (S. 95 by Sen. Roberts - Act 97-229). This bill amends section 38-10-8 of the Code to further provide for support collections by the Department of Human Resources.

Water Authorities (S. 129 by Sen. Butler - Act 97-417). To specifically authorize a water authority to upgrade water sewage service, including fire hydrants, and to provide for a certain portion of the savings from lower insurance rates to the company and customers to go to the authority to pay for the upgrade.

Switching of Telephone Service (S. 133 by Sen. Dial - Act 97-412). This bill prohibits the unauthorized switching of long distance telephone service.

Tax Exemption - Developmental Disabilities (S. 157 by Sen. Mitchell - Act 97-421). To redefine developmental disability to include traumatic brain injury at any age and individual and family support programs for individuals and families of persons with developmental disabilities would be administered by a state council in addition to the current regional and affiliated community councils. To provide that adequate personnel may be employed by the council or an entity apart from the council and would specify that volunteers would be protected from liability as are all volunteers under current law; to increase the regional council maximum memberships from 15 to 20 persons and provide for memberships from affiliated councils and the members necessary for a quorum, the terms, and reimbursement of expenses of the members; to add the requirement for regional councils to develop and implement a public awareness, education, and outreach program; to also expand the state support council to include certain nonvoting advisory members from certain state agencies and require membership from certain regional areas of community, consumer, and family members, and would require the state council to develop a council code of ethics, including potential conflicts of interest in membership; to require a certain minimum level of funding from the Department of Mental Health and Mental Retardation for the Individual and Family Support Program; and to continue the program and also would provide for a tax exemption from all municipal, county, and state taxes.

Criminal Littering (S. 168 by Sen. Mitchell - Act 97- 712). To provide that certain identifying information found in litter represents prima facie evidence that the persons whose names appear thereon actually deposited the litter.

County Subdivision Regulations (S. 248 by Sen. Ghee - Act 97-422). To require county commissions to approve or disapprove plats for proposed subdivisions within a reasonable time period and require notification to owners of proposed new subdivisions and owners of adjacent property before commission action is taken on plat requests. To provide for a penalty to be imposed upon the owner or developer for noncompliance with the county subdivision regulations, and to provide that the county commissions may establish boards of developers.

Stamps, Crowns, or Lids (S. 250 by Sen. McClain - Act 97-146). To remove the requirement that containers of malt or brewed beverages have stamps, crowns, or lids affixed thereto.

Beer, Malt, or Brewed Beverages - Definition (S. 260 by Sen. Langford - Act 97-419). To redefine the term "beer, or malt or brewed beverages" for the purpose of regulating the sale of alcoholic beverages by increasing the percentage of alcohol by weight and volume.

Handicapped Parking (S. 287 by Sen. Mitchell - Act 97-473). To provide further for the penalty for persons convicted of parking in parking zones designated for handicapped persons; to specify that it would be unlawful to park in parking zones designated for handicapped persons which are located in parking areas of businesses or other legal entities engaged in interstate commerce or which are subject to any federal or state laws requiring access of persons with disabilities; to require the amount of the fine to be posted on any sign designating a handicapped parking place; to provide that qualified law enforcement officers may enforce handicapped parking laws; and to provide for the distribution of the fines collected.

Welfare Reform - Family Support Act (S. 290 by Sen. Freeman - Act 97-245). This bill adopts the Alabama Uniform Interstate Family support Act.

ABC Board - Tobacco Regulations (S. 300 by Sen. Mitchell - Act 97-423). To establish the ABC Board as the state agency primarily responsible for promulgating, regulating, and, in conjunction with other state and local law enforcement agencies, enforcing state and federal laws prohibiting the sale of tobacco or tobacco products to minors; to revise and increase the penalties to apply to the distribution of tobacco products by a licensed business owner or his or her employee; to provide penalties for minors possessing tobacco products and for minors using false identification to purchase tobacco products; and to also provide for the deposit of fines or penalties collected into the State General Fund.

UC Benefits Increase (S. 324 by Sen. Denton - Act 97-246). This bill would increase the maximum unemployment benefits by \$20 per week effective for benefit years which begin on or after July 6, 1997.

Regional Jail Facilities (S. 344 by Sen. Butler - Act 97-441). To allow two or more counties to establish a regional jail authority.

Welfare Reform - Child Support (S. 458 by Sen. Smitherman - Act 97-447). To establish the Alabama Child Support Reform Act of 1997.

Water Cooperatives (S. 465 by Sen. Mitchell - Act 97-668). Under existing law, cooperatives are not expressly authorized to apply for incorporation as a water, sewer, or fire protection districts. This bill would allow a cooperative corporation organized pursuant to Article 9, Chapter 4, Title 10, Code of Alabama 1975, to form as an independent instrumentality of the state to render water or sewer services.

Professional Engineers and Land Surveyors (S. 502 by Sen. Bailey - Act 97- 683). This bill amends current laws relating to the licensure and regulation of professional engineers and land surveyors.

Tax Exemption - The Bridge, Incorporated (S. 542 by Sen. Smith - Act 97-420). This bill would exempt The Bridge, Incorporated, from any state, county, and municipal sales and use taxes.

Industrial Development Authority (S. 564 by Sen. Roberts - Act 97- 645). Current law provides that the Industrial Development Authority may make grants from proceeds of bonds to counties, municipalities, and local industrial development boards, economic development councils, airport authorities, and port authorities for the purpose of paying the costs of preparation of sites for industrial development. This bill would provide new criteria for the making of grants and would permit grant monies to also be used for the rehabilitation of structures.

ADEM - Ozone Protection (S. 574 by Sen. Mitchell - Act 97-406). This bill would specify legislative oversight of the state implementation plan developed by the Alabama Department of Environmental Management related to ozone protection.

CA - Revolving Loan Fund Authority (S. 611 by Sen. Freeman - Act 97-356). Under existing case law, revenues from existing taxes may not be appropriated for future debt, including the principal and interest on bonds issued by an authority. This bill would propose an amendment to the Constitution of Alabama of 1901, so as to authorize the appropriation of revenues from the cellular radio telecommunications service tax for the payment of principal and interest on the outstanding bonds of the Alabama Revolving Loan Fund Authority or its successor authority.

Class 5 Cities - City Board of Education (S. 643 by Sen. Sanders - Act 97-404). Current law provides that the governing bodies of Class 5 municipalities may, by resolution, provide for the appointment of the city board of education by districts corresponding to the districts of the governing body and mayor. This bill would specify when these board members would take office.

Class 5 Cities - Boards of Adjustment (H. 37 by Rep. Clouse - Act 97- 673). To allow Class 5 municipalities with a city manager or mayor-commission form of government to adopt an alternate structure for the boards of adjustment so that each commissioner and the mayor may make one regular appointment to represent each district equally.

Code Update (H. 53 by Rep. Newton (D) - Act 97-216). To adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1996 First Special Session and the 1996 Regular Session as contained in the 1996 Cumulative Supplement to certain volumes of the Code and in the 1996 Replacement Volume 4. Also, the bill would make corrections in certain volumes of the cumulative supplement.

Code Distribution (H. 54 by Rep. Newton (D) - Act 97- VETO). To make several changes in existing law as to the publication and distribution of the Code of Alabama.

No Drivers License (H. 74 by Rep. Melton - Act 97-494). To impose an additional penalty of \$50 on any person found guilty of driving a motor vehicle with a revoked, suspended, or cancelled driver's license or without a driver's license; provide that the additional penalty minus a five percent administrative charge be allocated to the Traffic Safety Trust Fund, which the bill would create, in the State Treasury; and provide that the Traffic Safety Section of the Alabama Department of Economic and Community Affairs administer the proceeds.

DUI Fines (H. 76 by Rep. Fuller - Act 97 -556). To increase the minimum DUI fines by \$100 and to amend the distribution of DUI fines.

General Fund Budget (H. 98 by Rep. Fuller, VETO). To adopt the general fund budget for the State of Alabama.

Solid Waste Collection Fees (H. 155 by Rep. Lindsey - Act 97-636). Under current law, every person or entity is required to participate in and pay fees for a local plan of solid waste collection, unless exempted. This bill would remove the exception for persons and entities served by a mandatory solid waste collection program administered by a county, and would allow the counties to adopt and promulgate reasonable exceptions.

Bids - Contract Duration (H. 188 by Rep. Perdue - VETO). To provide that contracts for the purchase of personal property or contractual services made by competitive bids shall be awarded for periods not to exceed five years.

Bids - Public Works Contracts (H. 275 by Rep. McMillan - Act 97-225). To revise, restate, and consolidate the law relating to public works contracts and, among other things, would modify definitions, provide standards for prequalification of bidders, provide relief of mistakes, and provide the awarding authority alternatives for managing amounts retained under contract. To also provide that if an action is instituted on the payment bond on a public works contract and one party offers to settle prior to judgment, the party refusing the offer would be required to pay the attorney's fees of the other party if the judgment is less than the offer. To modify existing prohibitions on the use of foreign products or steel to require a reduction in contract price to reflect any savings accruing rather than revoking the contract and providing for penalties. To provide for statewide advertising for bids on larger contracts, except for Department of Transportation projects. To increase criminal fines for the false or fraudulent issuance of certificates of compliance with the competitive bid laws and for any collusion among competing contractors.

Wine - Definitions (H. 291 by Rep. Haney - VETO). To define table wine and native farm wine as wine containing not more than 14.9 percent alcohol by volume and fortified wine or vinous liquor as wine containing more than 14.9 percent alcohol by volume but not more than 24 percent.

Financing of Campaigns (H. 312 by Rep. Venable - Act 97- 651). To further regulate the financing of political campaigns in Alabama.

Retirement - Prior Local Service (H. 357 by Rep. Knight (A) - Act 97- 704). To allow the purchase of previous service with a nonparticipating local agency under the Employees' Retirement System.

Age Discrimination (H. 389 by Rep. Buskey - Act 97- 723). To prohibit discrimination on the basis of age in hiring, job retention, compensation, and other terms and conditions of employment.

DOR - Electronic Tax Returns (H. 405 by Rep. Hall (A) - Act 97-493). Currently, there are no provisions for the electronic filing of tax returns with the Department of Revenue. These bills would provide authority for the Department of Revenue to accept tax returns and to establish rules and qualifications for the filing of all types of tax returns and other documents electronically, including telefiling. They would revise signature and return requirements and provide for the qualification of electronic return originators, transmitters, and associated software of software developers. The bills would also amend Section 40-1-1, Code of Alabama 1975, relating to certain definitions.

Tax Exemption - Severance Pay (H. 636 by Rep. Galliher - Act 97-705). This bill would exempt awards of severance or termination pay or income from a supplemental income plan from any state, county, or municipal income tax under certain specified conditions that have resulted in termination of employment.

Sales and Use Tax - Software (H. 640 by Rep. Haney - **VETO**). This bill would define "canned computer software" and specifically include it within the definitions of sale and purchase for taxation purposes.

Class 4 Cities - School Boards (H. 703 by Rep. Melton - Act 97- 679). This bill would provide that the Legislature may, by local act, provide for the election and operation of the city board of education in a Class 4 municipality.

Class 4 Cities - Ch. 44B - PJ (H. 739 by Rep. Parker (T) - Act 97-647). This bill establishes procedures for Class 4 municipalities organized under Chapter 44B of Title 11 of the Code of Alabama 1975 to delete nonurban territory from its police jurisdiction or planning jurisdiction.

Conservation Easements (H. 823 by Rep. Knight (A) - Act 97-715). This bill would provide for conservation easements whereby specific interests in real property could be granted for the preservation of conservation, recreation, historic, and related values. The bill would provide for the creation, enforcement, modification, duration, and termination of conservation easements.

Class 1 City - Regional Transit Authority (H. 915 by Rep. Perdue - Act 97-678). This bill

would allow a Class 1 city to form a public corporation to operate a regional transit authority

Sales and Use Tax - Component Exclusion (H. 917 by Rep. Burke - Act 97-648). Under existing law, the definitions of the "ingredient or component" exclusion from the sales tax and the use tax are different. This bill would make the definitions of ingredient or component the same for purposes of both the sales tax and the use tax. The bill would also clarify the types of property that do not qualify for the exclusions.

Proposed Constitutional Amendments

- H. 166, Act 97-449** -- Relates to design of primary ballots in Calhoun County.
- H. 398, Act 97-173** -- Relates to Marshall County Sheriff's Department.
- H. 469, Act 97-456** -- To allow certain public officials in Calhoun County to participate in Employees' Retirement system.
- H. 470, Act 97-458** -- To allow certain public officials in Talladega County to participate in Employees' Retirement system.
- H. 479, Act 97-451** -- To allow certain public officials in Coffee County to participate in Employees' Retirement system.
- H. 564, Act 97-448** -- To allow certain public officials in Lee County to participate in Employees' Retirement system.
- H. 702, Act 97-174** -- Ad Valorem Tax for Sumter county fire protection.
- H. 723, Act 97-175** -- Relates to Walker county Sheriff's Department.
- H. 874, Act 97-450** -- Pickens County fire protection.
- H. 937, Act 97-457** -- Zoning and planning in Limestone County.
- H. 1038, Act 97-452** -- Mobile county public officials in retirement system.
- H. 1041, Act 97-459** -- St. Clair County ad valorem tax for fire protection and emergency medical services.
- H. 1052, Act 97-460** -- Relates to ratites and ratite products.

Local Bills

- S. 75, Act 97-272** -- Mobile County - water, sewer and fire protection authorities board expense allowances.
- S. 82, Act 97-176** -- Relates to nude entertainment in unincorporated areas of Mobile County.
- S. 307, Act 97-273** -- Relates to Jefferson County lodgings tax.
- S. 525, Act 97-260** -- Relates to fire districts in Mobile County.
- S. 619, Act 97-660** -- Relates to Dothan Pension and retirement system.
- S. 636, Act 97-561** -- Relates to absentee voting in Clay County.
- S. 641, Act 97-661** -- Relates to beer tax distribution in Calhoun County.
- S. 652, VETO** -- Relates to police and firefighter retirement in Mobile.
- S. 667, Act 97-563** -- Oxford Civil Service System.
- S. 697, Act 97-664** -- Court costs for persons incarcerated in Baldwin County jail.
- S. 699, Act 97-583** -- Court costs in Baldwin County.
- S. 707, Act 97-665** -- Tuscaloosa County fire districts.

- H. 260, Act 97-674** -- Pension and relief system for Mobile policemen and firemen.
- H. 336, Act 97-709** -- Tax exemption for Anniston Fellowship House.
- H. 747, Act 97-568** -- Jacksonville City School Board.
- H. 749, Act 97-220** -- Jackson County coal tax.
- H. 751, Act 97-490** -- Marshall County TVA distribution.
- H. 779, Act 97-587** -- Calhoun County notice of local bills.
- H. 812, Act 97-655** -- Calhoun County nuisance abatement.
- H. 827, Act 97-570** -- Authorizes Courtland to operate cable television system.
- H. 829, Act 97-649** -- Authorizes Bessemer City Board of Education.
- H. 859, Act 97-656** -- Pollard Trust Account.
- H. 870, Act 97-676** -- Dothan pension system.
- H. 911, Act 97-519** -- Pleasant grove ad valorem tax.
- H. 919, Act 97-689** -- Police and firefighter retirement in City of Mobile.
- H. 922, Act 97-616** -- Tuscaloosa City Board of Education elections.
- H. 972, Act 97-514** -- Helena ad valorem taxes.
- H. 974, Act 97-591** -- Authorizes Sylacauga Utilities to operate a cable television system.
- H. 986, Act 97-601** -- Increases costs in Madison County district courts.
- H. 989, Act 97-595** -- Sumiton court costs.
- H. 1078, Act 97-517** -- Lee County Cattlemen's association tax exemption.
- H. 1086, Act 97-600** -- Phenix city police and firefighter pensions.
- H. 1088, Act 97-603** -- Abandoned vehicles in Auburn.

Annexation Bills

- S. 706, Act 97-584** -- Rainsville
- H. 530, Act 97-489** -- Rehobeth
- H. 685, Act 97-516** -- Anniston
- H. 686, Act 97-511** -- Blue Mountain
- H. 916, Act 97-524** -- Pine Ridge
- H. 936, Act 97-504** -- Boligee
- H. 941, Act 97-578** -- Gadsden, Glencoe
- H. 1017, Act 97-507** -- Monroeville
- H. 1019, Act 97-532** -- Chelsea
- H. 1020, Act 97-530** -- Pelham
- H. 1030, Act 97-531** -- Geneva
- H. 1044, Act 97-672** -- Citronelle
- H. 1077, Act 97-540** -- Auburn
- H. 1097, Act 97-521** -- Butler
- H. 1106, Act 97-536** -- Eclectic