

A Primer on Alabama's Legislative Process

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One of the prime functions of the Alabama League of Municipalities is to represent the interests of municipal government at the legislative level by informing members of legislation introduced that might affect municipal government and by presenting bills to the Legislature on behalf of Alabama's municipalities. This article briefly explains the workings of the Alabama Legislature and how legislation is passed by that body.

Constitutional Provisions

Article IV of the Alabama Constitution of 1901 (Sections 44 through 111) establishes the legislative department of state government. Section 44 states that the legislative power of the state shall be vested in a legislature composed of a Senate and a House of Representatives. Section 44 has been construed by the Alabama Supreme Court to give plenary power to the state legislature. *State v. Lane*, 181 Ala. 646, 62 So. 31 (1913).

According to the Court, the Alabama Legislature possesses all of the legislative power which resides in the state under the United States Constitution, except as that power is expressly or impliedly limited by the Alabama Constitution. This differs from the powers granted to the United States Congress in that Congress can exercise only those powers enumerated in the Constitution of the United States or implied therefrom.

Article IV prescribes the manner of drafting bills, the organization and qualifications of members of both houses, authorizes each house to determine the rules of its proceedings and establishes procedures for the enactment of laws. Due to space limitations, only the provisions most applicable to the interests of municipalities will be discussed in this article.

Composition of the House and the Senate

The Alabama State Legislature consists of 35 Senators and 105 members of the House of Representatives. This number was established by order of a three-judge federal district court for the Middle District of Alabama, Northern Division, in the case of *Sims v. Amos*, 336 F. Supp. 924, aff'd, 409 U.S. 942 (1972). In the decree, the court divided the state into 105 House districts and 35 Senatorial districts. Each House district is entitled to one Representative and each Senate district is entitled to one Senator. Each district has approximately the same number of people as any other district.

Qualifications of Legislators

Section 47 of the Alabama Constitution of 1901 states that Senators must be at least 25 years of age at the time of their election and Representatives must be at least 21 years of age at the time of their election. Both Senators and Representatives must also have been citizens and residents of Alabama for three years and must have lived in their respective districts for at least one year immediately preceding their election.

Section 60 of the Alabama Constitution of 1901 states that no person convicted of embezzlement of public money, bribery, perjury or other infamous crimes is eligible for membership in the state legislature.

Each house has the authority, given by the Alabama Constitution, to punish its members. With the concurrence of two-thirds of either house, a member may be expelled. A member who has been expelled for corruption is not thereafter eligible for membership in either house. Sections 53 and 54, Alabama Constitution of 1901.

Election and Terms of Members

Members of the House and Senate are elected for four-year terms on the first Tuesday after the first Monday in November in the even years which are not leap years. Their terms begin on the day following their election. Their terms expire on the day after the election of their successors four years later. Section 46, Alabama Constitution of 1901. Amendment 57 to the Alabama Constitution of 1901 provides that each house shall judge the qualifications of its members.

Organizational Session

The state Legislature meets in Organizational Session on the second Tuesday in January following the election of members. The only business that may be transacted at such a session is the organization of the legislature for the ensuing four years, the election of House and Senate officers, the appointment of standing and interim committees, the canvassing of election returns and the determination of contested elections.

During the Organizational Session, the House membership elects a Speaker who has the duty of presiding over the House of Representatives. The House membership also elects a Speaker Pro Tem to preside over the House in the absence of the Speaker.

The Senate is presided over by the Lieutenant Governor. During the Organizational Session, the Senate chooses a President Pro Tempore to preside in the absence of the Lieutenant Governor.

Pursuant to Section 53 of the Alabama Constitution of 1901, the House and the Senate adopt rules of procedure for the next four years.

Legislative Committees

The standing committees of each house are established by the rules of each house. These committees, which are required by the Alabama Constitution, operate throughout the session for the consideration of legislation assigned to them.

Committee members are named at the Organizational Session and hold membership throughout their terms. The members of House standing committees are appointed by the Speaker of the House. A rules change approved by the Senate provides that the members of Senate standing committees are appointed by the Senate President Pro Tem.

Length of Sessions

Amendment 339 to the Alabama Constitution of 1901 requires the state legislature to meet in annual regular sessions. Each regular session is limited to 30 legislative days within 105 calendar days. Each special session called by the Governor is limited to 12 legislative days within 30 calendar days.

A legislative day is a day on which either house of the legislature is actually in session. Normally, the legislature will meet in session two days per week and schedule committee work on the other days.

Types of Bills

Amendment 397 to the Alabama Constitution of 1901 states that a general law is a law which in its terms and effect applies either to the whole state or to one or more municipalities of the state less than the whole in a class. A special or private law is one which applies to an individual, association or corporation. A local law is a law which is not a general law or a special or private law.

Section 11-40-12, Code of Alabama 1975, establishes eight classes of municipalities based on population. The legislature has the authority to pass measures which affect only those municipalities within a specified class or classes. Such classification legislation is defined as general law by Amendment 397 to the Alabama Constitution. Any such legislation which has

application to only one municipality must be advertised prior to introduction according to the provisions of Section 106 of the Alabama Constitution.

Section 106, as amended by Amendment 341, of the Alabama Constitution of 1901 states that notice of all local bills must be published, prior to introduction, at least once a week for four consecutive weeks in some newspaper published in the county. If no newspaper is published in the county, then the notice must be posted, prior to introduction, for two consecutive weeks at five different places in the county.

Steps in Passing Legislation

If a member of the Legislature decides that a proposal has merit and that legislation should be enacted, the legislator prepares a bill or has a bill prepared for introduction into the house of which he or she is a member. That legislator then becomes the sponsor of the bill. All bills introduced must be prepared by either the Legislative Reference Service (LRS) or the Legislative Fiscal Office (LFO) as directed by a member of the Legislature.

The LRS is the principal bill drafting and legal research office serving the Legislature of the State of Alabama. LRS is an excellent source of information to the citizens of Alabama on all things relating to legislation. In addition to bill drafting, the duties of the LRS office include:

- Responding to questions concerning the organization and administration of state government or the operation of constitutional or statutory law.
- Rendering assistance in the drafting of bills and amendments to bills at the direction of a member of the Legislature.
- Making studies and reports on problems of state and local government in Alabama, either upon request or on one's own initiative.
- Conducting a continuous analysis of the scope, effect, and methods of federal, state, and local government operations in Alabama and making recommendations to the Legislative Council as appropriate.
- Preparing, when directed by the Legislature, a compilation or code of the statutes of Alabama.
- Acting as Code Commissioner in determining the content of the Code of Alabama 1975 and any supplements thereto and preparing an annual codification bill to adopt changes to the code enacted at prior sessions of the Legislature.
- Entering into a printing contract on behalf of the State of Alabama, when approved and directed by the Legislative Council, to publish the official code of the statutes of Alabama.
- Publishing the Alabama Administrative Monthly and the Alabama Administrative Code.

The LFO was established for the purpose of providing independent, accurate and objective fiscal information to members of the Alabama Legislature. They also provide bill and amendment drafting services much like the LRS. Additional duties of the LFO include:

- serving as primary staff for the House Ways and Means Committees and Senate Finance and Taxation Committees;
- fiscal analysis of legislative proposals and preparation of fiscal notes on bills which are introduced;
- analysis for the legislature of executive budget, tax and revenue proposals;
- drafting of legislative budget, tax and revenue proposals and related legislation;
- tracking of budget, tax and revenue legislation;
- analysis of agency budgets and budget requests;
- monitoring of state tax and other receipts;
- revenue estimating;

- certification (in conjunction with a separate certification by the Director of Finance) by the Legislative Fiscal Officer of projected growth in the Education Trust Fund by the third legislative day of each regular session (as required by Act 2000-732- the “National Average for Teachers’ Salaries” Act);
- special evaluations of programs or agencies as designated by the Joint Fiscal Committee;
- general research upon request of legislative committees or individual legislators; and
- publication and distribution of materials to communicate fiscal information to legislators and the public.

Once bills are prepared by either LRS or LFO, they are often introduced in both houses of the Legislature on or about the same date. This practice is not prohibited except the Alabama Constitution, in Section 70, requires that all bills to raise revenues shall originate in the House of Representatives. There is no limitation upon the number of sponsors that may sign a particular bill.

After introduction, the bill is assigned a consecutive number, for convenience and reference, and is read by title only.

This action is known as the first reading of the bill. The Speaker of the House of Representatives or the President Pro Tempore of the Senate, depending on the body where the bill was introduced, refers the bill to a standing committee of the House or the Senate.

Section 62 of the Alabama Constitution of 1901 states that no bill shall become a law until it has been referred to a standing committee of each house, acted upon by such committee in session, and returned therefrom.

Standing committees are charged with the important responsibility of examining bills and recommending action to the full House or Senate. At some time when the House or Senate is not in session, the committees of each house will meet and consider the bills which have been referred to them and decide whether or not particular bills should be reported to the full membership. It is during these committee sessions that members of the general public are given an opportunity to speak for or against the measures being considered by the standing committees.

Bills which are favorably acted upon by the standing committees are reported to the entire house for consideration and are placed on the regular calendar. Bills reported unfavorably are placed on the adverse calendar. If a committee fails to act, the membership of each house, by a vote, may require the committee to act and report its action to the body at its next meeting.

The committee reports a bill to the full house when the reports of the committees are called. The bill is given its second reading at that time and is placed on the calendar. The second reading is by title only.

Section 63 of the Alabama Constitution of 1901 requires that every bill be read on three different days in each house and that each bill be read at length on final passage.

Bills are listed on the calendar by number, sponsor and title in the order in which they are reported from committee. Bills are considered for a third reading (passage) in the order of the calendar unless action is taken to consider a bill out of regular order.

Important bills can be brought to the top of the order by special order or by a suspension of the rules. Special orders are recommended by the Rules Committee and must be adopted by a majority vote. In the final days of a session, both houses usually operate daily on special orders.

When a bill comes up for consideration, the entire membership of the house considers its passage. The bill is read at length, studied and debated. In general, regular parliamentary rules of procedure apply when a bill is being debated on final passage. Each house has special rules which limit debate.

A majority vote in each house is necessary for passage of legislation except in cases where the Constitution requires more than a simple majority. For example, a proposed Constitutional Amendment must receive the vote of three-fifths of all members elected. Section 284, Alabama Constitution of 1901. In a special session, any legislation not covered in the Governor’s call, or

proclamation, must receive a two-thirds vote in each house. Section 76, Alabama Constitution of 1901.

After a bill has been voted on, any member who voted with the prevailing side may move to reconsider the question, but the time within which bills may be reconsidered is limited in both houses.

Bills passed in one house are sent to the other house by a formal message and the bills then receive their first reading in the second house. Proposals go through the same procedure in the second house committee study and report, second and third readings and floor debate and votes.

If the second house passes the bill without amendment, it goes back to the originating house for enrollment. If a bill is amended in the second house, it must be returned to the first house for consideration of the amendment. The first house may vote to concur or not to concur, in which case the bill dies. The first house may vote not to concur and request a conference committee to work out the differences between the two bills. If the other house agrees to a conference, the presiding officers of each house appoint members to the conference committee.

The conference committee meets and tries to reconcile the differences in the two versions of the bill. If agreement is reached and both houses adopt the conference committee report, the bill is finally passed.

Sometimes a house may refuse to adopt the report of the conference committee and ask for a further conference. If the committee is still unable to reach an agreement, it may ask to be discharged and request the appointment of another conference committee to begin the process again. If the conferees never agree, the bill is lost.

When a bill is passed in both houses in identical form, it is enrolled or copied in its final form and sent to the house of origin for signature by the presiding officer in the presence of the members. The measure is then sent to the second house where it is also signed by the presiding officer in the presence of the members. Then the bill is sent to the Governor. The Governor is not required to sign proposed Constitutional amendments, they are sent directly to the Secretary of State for submission to voters for ratification at the time prescribed in the legislation.

Action by the Governor

When a bill reaches the Governor, he or she may sign it and thus complete the enactment of a bill into law. However, if the Governor objects to the bill, he or she may veto it or suggest amendments to the bill and return it to the house of origin. The bill is then reconsidered, first by the originating house and, if passed, by the second house. If a majority of the members elected to each house agree to the proposed amendments, the bill is returned to the Governor for his or her signature.

If both houses cannot agree to the Governor's amendments or if the Governor proposes no amendments but returns the measure, the bill has, in effect, been vetoed. The houses then may try to override the Governor's veto. An affirmative vote of 18 Senators and 53 Representatives is required to override the Governor's veto.

If the Governor fails to return a bill to the house of origin within six days after it is presented to him or her, Sundays excepted, the bill becomes law without the Governor's signature, unless the return was prevented by recess or adjournment. In such a case, the bill must be returned within two days after the legislature reassembles or the bill becomes law without the Governor's signature.

Bills which reach the Governor less than five days before the end of the session may be approved by him or her within 10 days after adjournment. Bills not approved within that time do not become law. This is known as the pocket veto.

The Governor has the authority to approve or disapprove any item or items of an appropriation bill without vetoing the entire bill.

Budget Isolation Resolutions

Amendment 448 to the Alabama Constitution of 1901 states that the Governor must submit a proposed budget to the Legislature by the second day of each regular session. The Legislature must make the basic appropriations necessary for the current budgetary period before passing any other legislation. However, if three-fifths of a quorum adopt a resolution declaring that this restriction does not apply to a certain bill, that bill may proceed to final passage. This is known as the budget isolation resolution and permits the Legislature to enact legislation prior to adopting a budget.

Unfunded Mandates

The Alabama Constitution provides that any general law whose purpose or effect is to require a new or increased expenditure of funds held or disbursed by the governing body of a municipality or county, or instrumentality thereof, shall not take effect unless (1) it is approved by the affected governing bodies or (2) the Legislature provides funding to pay for the mandate or (3) the Legislature passes the legislation by the affirmative vote of two-thirds of those voting in each house. Amendment 621 of the Constitution of Alabama of 1901.

The amendment does not apply to: (1) local laws; (2) acts requiring expenditures of school bonds; (3) acts defining new crimes or amending definitions of crimes; (4) acts adopted prior to the ratification of the amendment; (5) acts adopted to comply with federal mandates, only to the extent of the federal mandate; (6) acts determined by the Legislative Fiscal Office to have an aggregate insignificant fiscal impact on affected governments; or (8) acts of general application prescribing the minimum compensation for public officials.

The term “aggregate insignificant fiscal impact” shall mean any impact less than \$50,000 annually on all affect governments statewide.

Conclusion

The purpose of this article is to give the reader a basic understanding of the Alabama Legislature as well as the process for introducing and passing legislation. It is important for municipalities to have a good basic understanding of the legislative process in Alabama. For further questions relating to Alabama’s Legislature and the legislative process, you can contact the Legislative Reference Service (<http://lrs.state.al.us/>) or the Legislative Fiscal Office (<http://www.lfo.state.al.us/>). For questions relating to legislation affecting municipalities, please contact the League Governmental Affairs Department or the Legal Department (www.alalm.org or 334-262-2566).