

# THE ALABAMA MUNICIPAL **JOURNAL**

February 2005

Volume 62, Number 8

## Understanding the Alabama Legislature



The Alabama State Capitol, Montgomery, AL

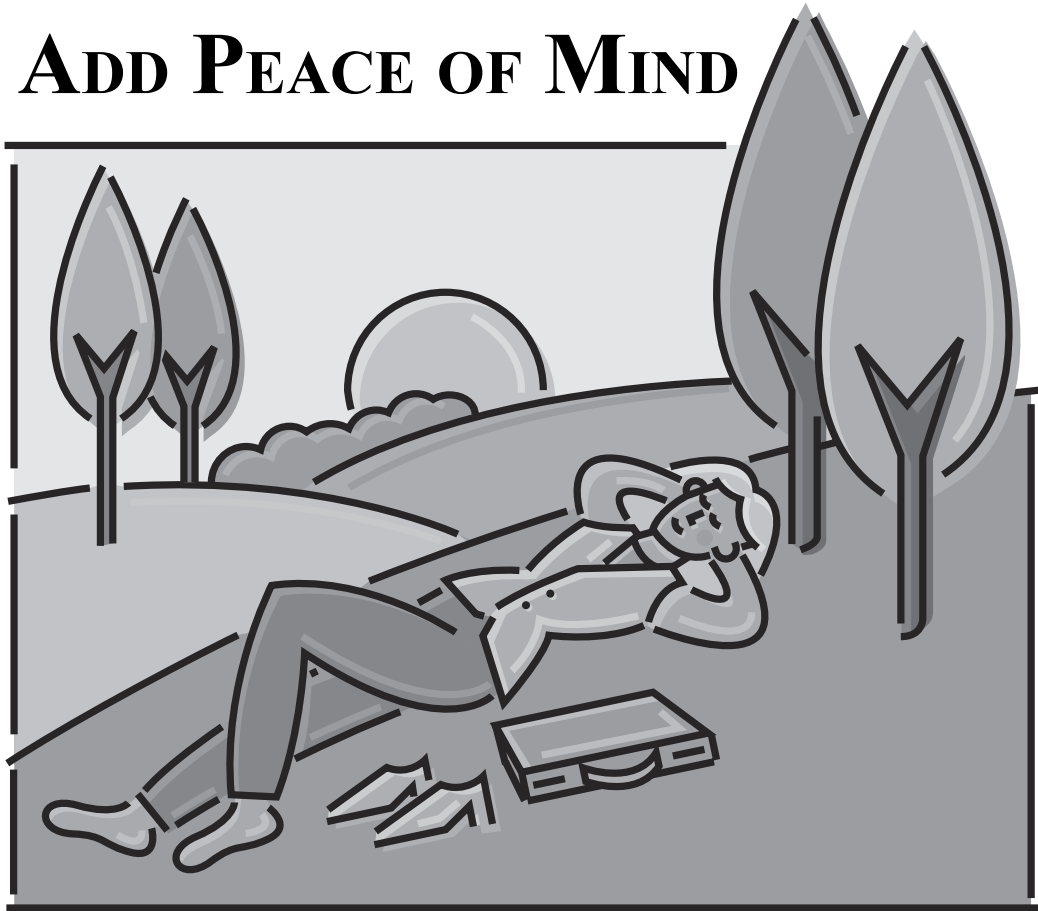
### Inside:

- **Effective Lobbying Begins at Home**
- **Members of the Alabama Senate and House**
- **2005 Senate and House Committees**
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# THE ALABAMA MUNICIPAL JOURNAL

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# Effective Lobbying Begins at Home

Since the Regular Session of the Alabama Legislature convenes this month, printed below are some tips that may help municipal officials prepare for the next legislative months.

**Stay well informed.** The League posts a weekly Legislative Bulletin to our website ([www.alalm.org](http://www.alalm.org)) that highlights priority bills as they move through the legislative process and serves as a way for the League to request action from municipal officials. The Bulletin is the main communication between the League and member cities and towns on legislative issues.

We urge all officials to promptly read the Bulletin and to communicate with other officials and employees who may need to be informed about legislative actions. Information on the status of bills not included in the report can be obtained by calling League Headquarters. When quick action is needed, the League will contact officials via e-mail, fax messages and telephone calls.

The Bulletin is posted by Friday afternoon during the session. We encourage each official to visit the League website often for updates. Links to important state legislative websites are also posted on the League site.

**Place someone in charge.** Make sure one person is responsible for immediate review of the Legislative Bulletin and for initiating a timely response by your city or town. This person generally duplicates the Bulletin (which can be downloaded from our site at [www.alalm.org](http://www.alalm.org)); distributes it to all councilmembers; and coordinates any follow-up responses needed. During the busiest periods of the legislative session, a response from your city or town may be needed in less than in one or two days and, occasionally, in one or two hours. Therefore, it is vital that someone assume responsibility for coordinating the response from your municipality.

**Take a position early and follow through.** Establish a quick and simple procedure to enable your city or town to take positions on bills discussed in the Legislative Bulletin and on other bills of interest to your area.

Municipalities use a variety of ways to determine their positions on bills. A good place to start is the League's Statement of Policies and Goals, which enumerates the official association stance on a variety of issues. It is important to take a position early in the legislative process because there is a greater opportunity to have an impact on the outcome of a bill. Also, officials will be prepared to respond quickly to subsequent requests for action.

Most important, provide follow-up responses as requested throughout the legislative session. Bills are heard

before several committees, and letters are not usually distributed with the bills as they travel through the process. It is vital to continue to respond immediately to requests for letters and telephone calls even though you may have responded at an earlier time in the session.

Legislators need to hear from municipal officials. Otherwise, they are forced to make decisions on important local issues without knowing the impact on municipalities in their districts.

The importance of contacting a legislator on time cannot be overemphasized. The most eloquent letter or phone call does no good if it arrives *after* a vote. If your city or town has an established position on a piece of legislation, officials should be able to send, with little or no delay, follow-up letters if requested in the Legislative Bulletin or by the League staff.

In addition to contacting your district legislators, letters should also be sent to the chair of the legislative committee where a bill is pending so your position will be recognized. Copies should also be sent to the author and/or sponsor of the bill, to committee members and to League Headquarters. *For clarity, each letter should cover only one bill and should reference the bill number in a separate line close to the top of the page.*

**Resolutions and letters are effective.** Single resolutions alone may not create much of an impact. But, if a resolution is combined with resolutions on the same subject from neighboring municipalities, the impact may be great. A letter with a resolution attached may have the most impact.

**Say thanks.** Remember to thank legislators *regularly* and *publicly* for their work and their support, and their votes. **Never** discount the importance of a thank you. Few people remember to thank their legislators and they clearly remember those who do. Recognition at council meetings, presentation of certificates or plaques or a letter to the editor praising the responsiveness of legislators to local needs can be effective public ways of saying thanks to your representatives.

*A word of caution: avoid public criticism of your legislator's actions.* Some members of the legislature rarely vote with cities and towns yet come through on crucial votes. Taking them to task in a public forum for a series of votes on relatively unimportant issues can lose their votes permanently on much more vital issues. It is much more effective to sit down with a legislator in private to discuss areas of disagreement.

*continued page 18*



# The President's Report

Jim Byard, Jr.  
Mayor of Prattville

## The League Needs Our Support

As the cold winds of February blow across Alabama, another regular session of the Alabama Legislature began on the 1st of this month. This year, while Governor Riley gave his annual State of the State address, our legislators from both the House and the Senate began to grapple with many issues facing our state. From budget items like general fund shortfalls, to social issues such as banning gay marriage, hundreds of bills will be introduced and debated.

The majority of these bills will have an affect on all of the cities and towns of Alabama – some negative, some positive. One of the most important roles our League plays is that of watchdog during the legislative session. Perry, Ken, Hal, Greg, Lori and others work everyday to keep us informed as to legislative happenings in Montgomery. It is our responsibility as elected leaders in our communities to respond when needed. Your influence with your senator or representative is immeasurable. If you have not already done so, I urge you to introduce yourself to your legislators; get to know them and the issues that interest them. I truly believe that the successes or failures we experience in the Legislature are a direct result of the personal relationships we have forged with our legislators.

As this session begins, I ask you to study our legislative priorities as set for the League by our policy Committee of State and Federal Legislation. This outstanding committee strives to promote legislation that will benefit all member cities. The next time you see your representative or senator, remind them to support the League's legislative agenda.

During the coming weeks, our legislators will need us to explain our positions on the issues that face our cities. Please read the League's weekly Legislative Bulletin and act when called upon. The League does an *excellent* job of providing information to member communities, and is in

direct contact with our legislators to help push issues of interest through the legislative process – as well as to stop issues that are harmful or destructive to our constituents.

Working together over the years, the League has built a successful reputation with the Legislature. It is our *responsibility* to continue to “carry the water” when asked to ensure for the future of not only our League but of each of our communities. ■

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# Municipal Overview

By  
PERRY C. ROQUEMORE, JR.  
*Executive Director*

## Understanding the Alabama Legislature

One of the prime functions of the 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 the municipalities of this state.

It is important for municipal officials to have a good basic understanding of the legislative process in Alabama. 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.

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 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 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 the 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 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

*continued next page*



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, 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 this year 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 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 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, 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.

Many bills are introduced in both houses of the legislature on or about the same date. This practice is not prohibited except the 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 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 may sign it and thus complete the enactment of a bill into law. However, if the Governor objects to the bill, he 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 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

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# 2005 SENATE COMMITTEES

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**Agriculture, Conservation & Forestry** - Zeb Little (Chair), Jack Biddle (Vice Chair), Bobby Denton, Jimmy Holley, Hank Erwin, Hinton Mitchem, Tom Butler, Gary Tanner, Hap Myers, Myron Penn

**Banking & Insurance** - Bobby Denton (Chair), Myron Penn (Vice Chair), Roger Bedford, Harri Anne Smith, Larry Means, Hap Myers, Rodger Smitherman, Tom Butler, Larry Dixon

**Business & Labor** - Tommy Ed Roberts (Chair), Vacant (Vice Chair), Gary Tanner, Larry Dixon, Bradley Byrne, Rodger Smitherman, Larry Means, Ted Little, Wendell Mitchell

**Children, Youth Affairs & Human Resources** - Sundra Escott (Chair), Hank Erwin (Vice Chair), Rodger Smitherman, Myron Penn, Quinton Ross, Del Marsh, Wendell Mitchell, Ted Little

**Commerce, Transportation & Utilities** - Quinton Ross (Chair), Jim Preuitt (Vice Chair), Hinton Mitchem, Roger Bedford, Jabo Waggoner, Sundra Escott, Zeb Little, Larry Means, Jimmy Holley, Curt Lee, E.B. McClain

**Confirmations** - E.B. McClain (Chair), Larry Means (Vice Chair), Phil Poole, Hinton Mitchem, Zeb Little, Sundra Escott, Hank Sanders, Pat Lindsey, Del Marsh, Harri Anne Smith

**Constitution, Campaign Finance, Ethics & Elections** – Jeff Enfinger (Chair), Wendell Mitchell (Vice Chair), Pat Lindsey, Zeb Little, Tommy Ed Roberts, Steve French, Roger Bedford, Curt Lee, Hank Sanders

**EE&T** - Pat Lindsey (Chair), Zeb Little (Vice Chair), Harri Anne Smith, Myron Penn, Hank Sanders

**Education** - Vivian Figures (Chair), Curt Lee (Vice Chair), Sundra Escott, Roger Bedford, Jack Biddle, Steve French, Jimmy Holley, Hank Sanders, Quinton Ross

**Energy & Natural Resources** - Gary Tanner (Chair), Vivian Figures (Vice Chair), Pat Lindsey, Roger Bedford, Jack Biddle, Jabo Waggoner, Zeb Little

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**Governmental Affairs** - Phil Poole (Chair), Larry Dixon (Vice Chair), Wendell Mitchell, Bobby Denton, Tom Butler, Vivian Figures, Tommy Ed Roberts, Larry Means, Gary Tanner, Hap Myers

**Health** - Larry Means (Chair), E.B. McClain (Vice Chair), Roger Bedford, Larry Dixon, Jimmy Holley, Jabo Waggoner, Pat Lindsey, Myron Penn, Harri Anne Smith, Jim Preuitt

**Industrial Development & Recruitment** - *Vacant* (Chair), Gary Tanner (Vice Chair), Sundra Escott, Jimmy Holley, Bradley Byrne, Rodger Smitherman, Tommy Ed Roberts, Gerald Dial, Bobby Denton, Del Marsh

**Judiciary** - Rodger Smitherman (Chair), Zeb Little (Vice Chair), Roger Bedford, Myron Penn, Vivian Figures, Curt Lee, Pat Lindsey, Steve French, Hank Sanders, Del Marsh, Quinton Ross

**Local Legislation #1** - Lowell Barron, Jim Preuitt, Hank Sanders, Curt Lee, Gerald Dial

**Local Legislation #2** - Rodger Smitherman, Sundra Escott, E.B. McClain, Jabo Waggoner, Steve French, Hank Erwin, Curt Lee, Jack Biddle

**Local Legislation #3** - Vivian Figure, Gary Tanner, Pat Lindsey, Hap Myers

**Rules** - Jim Preuitt (Chair), Pat Lindsey (Deputy Chair), Roger Bedford (Vice Chair), Lowell Barron, Jabo Waggoner, Hinton Mitchem, Jack Biddle, Hank Sanders, Rodger Smitherman, Tommy Ed Roberts, Larry Means

**Small Business & Economic Development** - *Vacant* (Chair), *Vacant* (Vice Chair), Tom Butler, Phil Poole, Sundra Escott, Ted Little, Quinton Ross, Gerald Dial, Bradley Byrne

**Tourism & Marketing** - Myron Penn (Chair), Pat Lindsey (Vice Chair), Rodger Smitherman, Jack Biddle, Gerald Dial, E.B. McClain

**Veterans & Military Affairs** - Hap Myers (Chair), Quinton Ross (Vice Chair), Bradley Byrne, E.B. McClain, Harry Anne Smith, Hank Erwin, Gerald Dial, Wendell Mitchell

## During the Session

Any member of the Senate may be reached at the State House by calling

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*continued next page*

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## During the Session

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# ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran  
Director, State and Federal Relations

## Birmingham Fails New Air Quality Standards

The Environmental Protection Agency has published a finding that the Birmingham area failed to meet new more stringent air pollution rules for fine particles that are linked to lung and heart disease and cancer. Birmingham tied Atlanta for having the dirtiest (particulate pollution) air in the South.

The new rule governs fine particles 2.5 microns or smaller or one-thirtieth the width of a human hair. The particles come from industrial and traffic sources. The new and more stringent standard was created because recent health studies showed how fine particles can penetrate deeper into lungs than the larger particles. The state of Alabama is now required to produce plans within the next three years that will reduce air pollution to the required levels by 2010. If the state does not succeed in lowering particle pollution levels in a noncompliant area such as Birmingham by 2015, they could face penalties such as loss of federal highway funds.

### **New Director to Lead ADEM**

On January 6, 2005, the Alabama Environmental Management Commission hired Trey Glenn for director of the Alabama Department of Environmental Management (ADEM). Glenn, who currently serves as director of the Office of Water Resources, was hired after a month long search. He will start the position on February 1st. Glenn's mother is the Mayor of Wetumpka, the Honorable Jo Glenn.

### **Sprawl Report: Imperiled Species in Bibb and Shelby Cited**

A new report produced by the National Wildlife Federation, Smart Growth America and NaturServe found that the rapid conversion of once-natural areas and farmland into subdivisions, shopping centers, roads and parking lots has become a leading threat to America's native plants and animals.

The report, titled "Endangered by Sprawl" shows that imperiled plants and animals are not found only in remote wildernesses, but are intertwined with where most people live. For example, in the report, even though the nation's 35 fastest growing large metro areas comprise just 8% of the land area of the lower 48 states, they are home to nearly one-third (29%) of the imperiled species analyzed - nearly 1200 species - in all. And remarkably, 553 of these species (13%) are found only in the fast growing metro areas. In Alabama, the report identifies Shelby County, which is home to 27 imperiled species, as one of the fast growing areas nationally that has been impacted by sprawl. To view the entire report go to <http://www.smartgrowthamerica.org>.

### **Florida Asks Court to Consider Endangered Species**

Florida has added a new twist to a three-state fight about sharing water. It wants a federal judge to consider the plight of several endangered species in the Panhandle as the judge decides how to settle the 15-year dispute with Georgia and Alabama. The case could determine how much water metro Atlanta can take out of the Chattahoochee River. Florida filed a motion Friday in U.S. District Court. Lawyers for the state argue that the operation of the federally owned dams on the Chattahoochee River violate the Endangered Species Act. The motion argues that because the dams hold water they reduce the amount of water flowing downstream for the Gulf sturgeon, two species of freshwater mussels, the fat threeridge and purple bankclimber. The motion says the U.S. Army Corps of Engineers has failed to take the endangered species into consideration. The Corps owns and operates the dams. Florida's battle with Georgia and Alabama over the Chattahoochee - Atlanta's most important river - moved back to the courtroom in 2003 after the states failed to reach an agreement to share water. ■

# Effective Lobbying — continued from page 4

**Keep the League staff informed.** Always send the League copies of your letters. The staff needs to know to whom you write, when you write and what you say. And, if you receive a response from a legislator, let us know about that also. The League staff reads your letters and incorporates your arguments and local circumstances into testimony before committees when required. Staff members also cite your letters when they talk with legislators.

**Meet regularly with your legislators.** Correspondence with legislators on issues of importance to cities and towns will be more meaningful if an on-going personal relationship has been established with senators and representatives. Like most municipal officials, you probably run into your legislators at community events.

In addition, it is important to meet formally at least once a year with each of your lawmakers to review key League and municipal issues. Be sure to meet with Congressional representatives as well. There is no substitute for knowing your federal and state lawmakers, as well as key members of their staffs, so that an immediate and effective contact can be made when necessary.

**Collaborate with community groups.** Establish positive links with community groups to explore potential collaborative legislative action. The local chamber of commerce, voters organizations, taxpayers associations and other business, professional and community groups can be natural allies on certain issues since the health and well-being of your community are in their best interest as well as yours.

**Establish a working relationship with the media.** Local editorial support or opposition can be extremely helpful on many priority bills. Consider sending letters to the editor or by-lined opinion editorials which are based on solid information you provide about the local impact of legislation under consideration. A copy of letters to the editor or op-ed pieces should also be forwarded to the League.

**Stick with it.** Some issues come up year after year. It is a fact of life in public policy-making that some things just take time. Consistent participation by a municipality year after year is essential to long-term success in the legislature.

**Follow the Golden Rule.** Approach legislators the way you, as a municipal official, want to be approached by your constituents: *with courtesy and respect.* ■

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# THE LEGAL VIEWPOINT

By Ken Smith  
Deputy Director/Chief Counsel

## Basic Parliamentary Procedure

Parliamentary law is defined by Black's Law Dictionary as the general body of enacted rules and recognized usages which govern the procedure of legislative assemblies and other deliberative bodies. Sturgis defines parliamentary law as the code of rules and ethics for working together in groups.

### History

Parliamentary law has evolved through centuries from the experiences of individuals working together for a common purpose. The name, of course, is derived from the mother of parliaments, the forum of the House of Commons of Great Britain. Parliament is noted for its zealous regard to the right of free and fair debate, the right of the majority to decide and the right of the minority to protect and be protected.

Parliamentary procedure became uniform in 1876 when Henry M. Robert published his manual on parliamentary law. Today, there are several excellent books on parliamentary procedure including *Robert's Rules of Order Newly Revised* and *Mason's Manual of Legislative Procedure*.

### Significance

Justice William O. Douglas once said that "Procedure is more than formality. Procedure is, indeed, the great mainstay of substantive rights ... without procedural safeguards, liberty would rest on precarious grounds and substantive rights would be imperiled." In the case of *McNabb v. U.S.*, 318 U.S. 332 (1942), the court stated: "The history of liberty has largely been the history of observance of procedural safeguards."

Any great principle or right is only as strong as the procedures that support and enforce it. To vote by secret ballot is a fundamental right, but it is meaningless unless supported by procedures that ensure equal opportunity to vote, freedom of choice, absolute secrecy and honesty in tabulation. Unless parliamentary procedure is observed, the rights of free speech, free assembly and freedom to unite in organizations are useless and hollow rights; parliamentary procedure gives reality to these democratic concepts.

### Rules

The rules of parliamentary procedure are found both in the common law and in statutory law. Common law has given us the principles, rules and usages which have developed from court decisions on parliamentary questions and is based on reason and long observance. These rules apply in all situations except where a statutory law governs.

The statutory law of procedure consists of statutes relating to procedures that have been enacted by federal, state or local legislative bodies. These rules apply only to the particular organizations covered by the law.

Parliamentary procedure is essentially common sense and is simple to understand and easy to use. It works magic in meetings and enables members and organizations to present, consider, and carry out their ideas and transact business with efficiency and harmony. The rules can be used to destroy, as well as to construct, but only when a majority of the members are ignorant of their parliamentary rights.

### Sources of Rules

There are four basic sources of rules, arranged here in order of rank:

- 1. Law.** Statutes enacted by federal, state or local governments are the highest source.
- 2. Charter.** The charter granted by government or an organization ranks second.
- 3. Bylaws.** The bylaws, or the constitution and bylaws and other adopted rules, rank next.
- 4. Rules.** Any book of rules duly adopted as the rules of procedure on procedural questions not covered by other sources are last in precedence.

Clearly, rules of one source may not conflict with the rules of a higher rank. In the event of conflict, the highest source must be observed.

*continued next page*

## Principles of Parliamentary Procedure

The primary principle of procedure is to facilitate the transaction of business and to promote cooperation and harmony. Procedure should not be used to entangle and confound the uninformed but rather to expedite business, to avoid confusion and unfair advantage and to protect the rights of members.

Several basic procedural rules have been developed to assure the simplest and most direct procedure for accomplishing a purpose is observed.

First, motions have a fixed order or precedence and only one motion may be considered at a time.

Second, all members have equal rights, privileges and obligations. The presiding officer must be impartial and should use his or her authority to protect and preserve the equal rights of all members to propose motions, speak, ask questions, vote, etc.

Third, the ultimate authority in an organization is vested in the majority. A primary purpose of procedure is to determine the will of the majority and to carry it out. Once a question has been voted upon, the decision becomes that of the organization. Each member should accept and abide by the result.

Fourth, the minority is entitled to the same consideration and respect as members who are in the majority. The protection of the rights of all, both majority and minority, should be the concern of each member.

Fifth, each member is entitled to full and free discussion. Each has the right to express his or her opinion fully and freely without interruption and interference within the framework of the rules.

Sixth, each member is entitled to know the meaning and effect of each question presented. The presiding officer should keep the pending motion clearly before the assembly at all times. Upon request, the presiding officer should explain any procedural motion and its effect so that every member may understand the proceedings.

Last, but not necessarily the least important principle, is that all meetings must be characterized by fairness and good faith. Trickery, dilatory tactics, dealing in personalities and railroading are, or should be, taboo. Fraud, unfairness or absence of good faith may be grounds for a court to invalidate action taken.

## Classes of Motions

A motion is the formal statement of a proposal or question to an assembly for consideration and action. Motions are classified into four groups – main motions, subsidiary motions, privileged motions and incidental motions.

A **main motion** is the foundation of the conduct of business. There are three main motions that have specific names and are governed by somewhat different rules. To distinguish them from the main motion, they are referred to

as “specific main motions” and are motions to reconsider, to rescind, and to resume consideration (take from the table).

**Subsidiary motions** are alternative aids for changing, considering or disposing of the main motion and are therefore subsidiary to it. The most frequently used subsidiary motions are to postpone temporarily (lay on the table), to vote immediately (previous question), to limit debate, to postpone definitely, to refer to a committee, to amend and to postpone indefinitely.

**Privileged motions** have no connection with the main motion before the assembly. They are emergency motions and of such urgency that they are entitled to immediate consideration and are acted upon ahead of other motions. Privileged motions are adjournment, recess and question of privilege.

**Incidental motions** are merely incidental to the business of the assembly and usually relate to the conduct of the meeting and not to the main motion. They are offered at any time when needed. The most frequently used of this class of motion are appeal, suspend the rules, point of order, parliamentary inquiry and division of the question.

Classification of motions is usually based on the relation of that motion to the main motion. The main motion is the foundation that determines the classification of other motions. The presiding officer must be alert to the effect and purpose of a motion so as to properly classify it and rule accordingly.

## Presentation of Motions

The presentation of a motion is made by addressing the chair, gaining recognition, proposing the motion and having it seconded, followed by the presiding officer stating the motion to the assembly. When the chair recognizes the speaker, he or she is said to “have the floor” and other members should permit him or her to present the motion or to speak. The motion is stated “I move that...” and is the only correct way. It gives notice to the chairperson or presiding officer and to the membership that the speaker is submitting a proposal for decision. Do not use such terms as “I move you,” “I so move,” “I propose,” or “I suggest.” Lengthy motions should be written and a copy handed to the clerk or secretary and the presiding officer.

Once the motion is made, most rules require a second. This is done by saying “I second the motion” or simply “Second the motion.” No recognition is required to second except that the minutes should show who made the motion. If no one seconds, the chair announces, “The motion is lost for want of a second.” The presiding officer has the duty to state all properly-presented motions to the body and must do so correctly and clearly.

Usage has established proper phraseology for stated motions. This language should be learned and utilized. Subsidiary motions are generally stated as follows:

- Limit Debate: “I move that debate on the proposed assessment be limited to one hour.”



- Postpone Definitely: “I move that all reports of special committees be postponed until the next regular meeting.”

- Refer to Committee: “I move that we create a subcommittee to consider the motion and report at the next meeting.”

- Amend: “I move that the motion be amended by adding the words ... “

Privileged motions are simply stated: “I move we adjourn,” or “I move we adjourn promptly at 9:00 o’clock,” or “I move that we recess for five minutes,” or “I move we recess until 8:00 o’clock.”

On questions of privilege, the motion may be stated: “I move that the city engineer be asked to report his findings on the seashore drainage project.”

Incidental motions may also be stated simply. “I move that we suspend the rules prohibiting speeches by guests during business meetings so that when we meet in the afternoon session the president of the chamber of commerce may speak on the plans for Clean-up Week.”

### **Basic Rules of Motions**

Rules governing motions are definite and logical. If a member understands the purpose of a motion, he or she can usually reason out the rules governing it. The following questions should be asked about each motion: What is its precedence? Can the motion interrupt the speaker? Is a second required? Is it a debatable motion? Can it be amended? What are the requirements of votes for this particular motion? To what other (usually previous and pending) motion does this motion apply? What other motions (which could be proposed) can be applied to the motion?

### **Precedence**

To avoid confusion each motion is assigned a definite rank. Each assembly may, and many do, establish a permanent and definite series of rules of precedence or rank to all types of motions. The customary ranks are as follows: (1) adjourn, (2) recess, (3) question of privilege, (4) postpone temporarily, (5) vote immediately, (6) limit debate, (7) postpone definitely, (8) refer to committee, (9) amend, (10) postpone indefinitely, (11) main motions. The first three, in the list above are privileged; numbers 4 to 10 are subsidiary; and number 11 deals with the main motion. In the latter case, there are a group of motions, known as specific main motions, which include reconsider, rescind and resume consideration.

There are two basic rules of precedence. First, when a particular motion is being considered, any motion of higher precedence may be proposed but no motion of lower precedence may be proposed. For example, when a main motion is pending, a member may move to refer to committee and another may move to recess.

Second, motions are considered and voted upon in reverse order to their proposal. The motion last proposed is considered and disposed of first. For example, if motions are proposed

as cited above, they are considered in reverse order, i.e. to recess, to refer to committee and then main motion.

### **Interruption of Speaker**

Two types of motions, because of their urgency, permit the speaker to be interrupted. The first type is those motions that must be proposed and decided within a specific time limit – reconsider, object to consideration, appeal and division of the assembly. Reconsider must be made during the same meeting at which the vote to be reconsidered was taken. (Special rules of a continuing assembly may slightly alter this procedure.) An objection to consideration must be made before progressing to consider the main motion and before any other motion has been applied to it. An appeal and a call for division of the assembly must be made before other business intervenes.

The second type of interruption relates to immediate rights and privileges of a member of the body – question (or point) of privilege, point of order, and parliamentary inquiry. To justify interrupting a speaker, a parliamentary inquiry must relate to the speaker, his speech, or some other matter that cannot be delayed until the completion of the speech. A point of privilege, to justify interruption, must involve the immediate comfort, convenience or rights of the assembly. Points of order must relate to mistakes, errors or a failure to comply with the rules. If it relates to the speaker or his speech, points of order must relate to some error that cannot wait until completion of the speech for its determination.

### **Seconds**

All motions require seconds except in meetings of committees, boards or governmental bodies. For a motion to be worthy of consideration by an assembly, at least two members must be in support. Requests of the presiding officer do not require seconds. For example, point of order, inquiry and withdrawal of a motion or question of privilege do not require seconds. Seconds of motions may be required by local agreement or customs notwithstanding the general rule.

### **Debates**

Some motions are open to full debate, others to restricted debate and some are undebatable. Main motions and procedures relating thereto (such as amendments, reconsideration, postponement, appeals) are fully debatable. These motions require the consideration and decision of the organization and, therefore, are entitled to a full discussion and explanation by the membership.

Three motions are open to restricted debates – recess, postpone definitely and refer to a committee. Such debates must deal with specific points, i.e., on motion to recess, a discussion of the desirability and duration of the recess; on motion of postponement as to the advisability and the time of

*continued next page*

postponement; and on motion to refer to committee as to the advisability, selection, duty and instructions to the committee.

All other motions are undebatable. For example, motion to adjourn, postpone temporarily, vote immediately, and certain incidental motions, such as suspension of rules and requests to the chair, are not debatable. These motions deal with simple procedural issues.

The presiding officer must enforce the rules on debate since to deny or curtail debate on debatable motions tends to deprive members of their rights and could well result in unsound decisions. Permission to debate undebatable issues is likewise unfair and discriminatory and could unnecessarily bog down a meeting.

### **Amendments**

Often a motion nearly approaches the consensus of thinking of an assembly but lacks the “finishing touch” to make it entirely acceptable to a majority of the members. An amendment may add just what is required to enable the members to vote approval of the idea or proposal.

A simple test determines whether a motion can be amended. If the motion can be stated in different words, it can be amended. The motion “I move we recess for 10 minutes” could as well be stated “I move we recess for 15 minutes.” Clearly, the latter is a valid amendment and may actually express the will of the majority, whereas 10 minutes might be considered a sheer waste of time. The motion to postpone indefinitely, for example, can be stated in only one way and, therefore, cannot be amended.

Some motions can be amended freely, some can be amended with restrictions and some cannot be amended, as noted above. Main motions and amendments can be amended freely. The motions to recess, limit debate or postpone definitely can only be amended as to time. A motion to refer to committee can only be amended as to details referable to the committee, i.e., selection, duties, instructions, etc.

### **Votes**

Generally, all motions require a majority vote to pass. However, there are four motions which modify the rights of members to propose, discuss and decide proposals and, therefore, require a two-thirds vote. These four motions are to vote immediately, to limit debate, to suspend rules, and to object to consideration. All of these motions curb the basic right of free debate and full discussion and, therefore, require more than a simple majority.

Municipal governing bodies operate under statutory requirements in passing certain types of legislation. Such statutes must be followed to validate the action taken.

### **Applications**

When a motion is being considered, it is important to know if other motions can be applied to it.

1. Every motion can have the motion to “withdraw” applied to it. Such a motion is often used to save the embarrassment of defeat or to “save face.” The speaker can be interrupted to propose it, no second is required, and it is not amendable or debatable.

2. All debatable motions can have the motions to “vote immediately” and “limit debate” applied to them. These motions require a second but are not debatable, although “limit debate” is subject to restrictive amendments.

3. All motions that can be worded or stated in more than one way can have the motion “to amend” applied to them.

4. The main motion can have all the subsidiary and specific main motions applied to it, as well as “object to consideration.” Specific main motions can have no other motions applied to them except that “reconsider” and “rescind” may have “vote immediately” and “limit debate” applied to them.

5. Privileged motions and incidental motions can have no other motion applied to them, except that “recess” may be amended and an “appeal” may have “vote immediately” and “limit debate” applied to it.

To “renew a motion” means to propose again the same or substantially the same motion that has been voted on and lost. When a main motion has been voted on and lost, the same or substantially the same motion, though worded somewhat differently, cannot be renewed at the same meeting. It can, however, be reconsidered at the same meeting or proposed as a new main motion at a later meeting. All other motions may be renewed whenever, in the judgment of the presiding officer, the members might reasonably be expected to act or vote differently on the subject matter or issue.

The problem is for the presiding officer to make a reasonable judgment. The presiding officer is aided in arriving at this decision by action taken on intervening business, progress in debate or change in the parliamentary situation. It would be futile to permit renewal unless there is reason to believe that a different outcome will result on the second consideration. In any event, the decision of the presiding officer can be appealed, thus giving members an opportunity to express themselves a second time.

### **Changing Main Motions Already Voted Upon**

Usually, when an assembly decides a main motion by taking a vote on it, the decision is final. An assembly, like an individual, may change its mind and, therefore, motions have been developed to permit the change. Such motions are reconsider, rescind and amend, by a new main motion.

The motion to reconsider the vote on a main motion that either carried or lost can be proposed during the same meeting at which the main motion was voted on. Action to renew a main motion that was “lost” cannot be taken at the same meeting but may be taken at a later meeting. The motion to rescind and amend by a new main motion and the motion to repeal apply to motions that have been carried.

*continued page 29*



# Legal Notes

By Lorelei A. Lein  
Staff Attorney

## COURT DECISIONS

**Zoning:** Applications for a special exception, rather than a variance, to a zoning ordinance that designates self-storage facilities as a conditional use was appropriately reviewed by the planning commission and the city council rather than the zoning board of adjustment. *Shades Mtn. Plaza v. City of Hoover*, 886 So.2d 829 (Ala.Civ.App. 2003).

**Fire Protection:** A city does not undertake a legally enforceable duty to provide skillful fire protection by creating a volunteer fire department. Further, if volunteer firefighters are found to be immune under the Volunteer Service Act, there can be no vicarious tort liability on the part of the city. *Hollis v. City of Brighton*, 885 So.2d 135 (Ala. 2004).

**Utilities:** A proposed municipal ordinance which would have placed a special attorney in control of a separately incorporated municipal waterworks system was invalid as state law squarely placed in the hands of the board of directors of the waterworks system the power to control the system. *Randall v. Water Works and Sewer Bd. of the City of Birmingham*, 885 So.2d 757 (Ala. 2003).

**Alcoholic Beverages:** Speculation that a liquor license applicant might operate their lounge in the same manner as the prior licensee was insufficient to establish circumstances “clearly detrimental” to the adjacent residential neighborhoods or show the creation of a nuisance so as to deny the approval of a liquor license and dance permit. *King v. City of Birmingham*, 885 So.2d 802 (Ala.Civ.App. 2004).

**Mayor:** A mayor is not “elected to the council,” within the meaning of the statute providing for the city council’s removal of an appointed town official by a two-thirds vote of all those elected to the council, and, thus, although his vote was technically allowed on the question of removing the police chief because the town has a population of less than 12,000, his vote was irrelevant in determining whether a sufficient number of those elected to the council approved the police chief’s removal. *Hammonds v. Town of Priceville*, 886 So.2d 67 (Ala. 2003).

**Garbage Collection:** A city ordinance requiring generators of solid waste to subscribe to a city program for the collection of such waste absent an exemption was insufficient to justify entry of a preliminary injunction against a waste disposal company that did not itself generate solid waste, in the city’s action seeking to require the company to discontinue its operations in the city. The ordinance, in and of itself, did not establish that the city would suffer immediate and irreparable harm from the company’s continued operations, that the city was likely to succeed on the merits, of that the hardship imposed upon the company would not unreasonably outweigh any benefits to the city. *Blount Recycling v. City of Cullman*, 884 So.2d 850 (Ala. 2003).

## ATTORNEY GENERAL OPINIONS

**Drug Forfeiture:** Under Section 20-2-93(e)(2) of the Code of Alabama 1975, any Alabama agency receiving the proceeds from the sale of seized property may use the money to pay an invoice, or in the case of multiple agencies, they may pay, in equal parts, the invoices for law enforcement cooperation from a participating federal or out-of-state agency in an amount equal to its share. 2005-035.

**Appropriations:** A town may expend public funds to pay for debris and tree removal following a hurricane, even if it involves work on private property, if the town council makes a determination that the work done served a legitimate public purpose. Absent such a finding, the council may assess individual property owners for any cleanup and tree removal performed where the debris constituted a health hazard and where the owners were unable to secure a private source to perform the cleanup service. 2005-029.

**Elections:** A voter may choose the district in which he or she votes if the district boundary line passes through some part of the voter’s dwelling house. If the district boundary line does not pass through some part of the dwelling house, the voter may only vote in the district that encompasses his or her dwelling. 2005-030.



# Federal Legislative and Regulatory Issues

Mary Ellen Wyatt Harrison  
Staff Attorney

## Presidents Bush Unveils Federal Tax Reform Plan

On January 7, President Bush unveiled his newly formed Advisory Panel on Federal Tax Reform, which will consider various proposals for reforming and simplifying the Federal tax system. Those proposals could include a number of issues that specifically impact state and local governments, such as the deductibility of state and local taxes for those who itemize deductions as well as tax-exempt bond financing – most of which will be considered a tax increase rather than a tax reduction for many of our citizens. The panel consists of nine members, including three former members of Congress, a former commissioner of the Internal Revenue Service and a former commissioner of the Securities and Exchange Commission. The panel will present its findings later this year, which will likely serve as the outline for the Administration's tax reform legislative proposal to Congress. While no local government representatives were chosen to sit on the panel, the White House has assured us that local governments will be given the opportunity to participate and provide input on this important issue during the panel's deliberations.

## Congressional Committee Assignments are In the Making

The new committee chairs and ranking members of Congress were chosen during the first few weeks in January by the House and Senate leadership of each respective party. Significant changes in key chairmanships in both the House and Senate have been announced over the last couple of weeks with more announcements expected. The biggest change is the elevation of Sen. Harry Reid (D-Nev.) as the Senate minority leader in the wake of former Democratic Leader Tom Daschle's (D-S.D.) defeat in the November elections. The much coveted and powerful position of Senate Appropriations committee chair was given to Sen. Thad Cochran (R-Miss.). Cochran will replace veteran Sen. Ted Stevens (R-Alaska). The committee picture in the House of Representatives is much less clear than that in the Senate. This is especially true in the powerful Appropriations Committee. After a long process, the House Republican Leadership selected Rep. Jerry Lewis (R-Calif) to fill the full committee chairmanship vacated by Rep. C.W. "Bill" Young (R-Fla). Leadership of the House appropriations subcommittees and the VA/HUD Subcommittee is still in the air. According to several appropriations lobbyists familiar with the subject, the House will narrow the number of House Appropriations Subcommittees from the current 13 to 11.

House Majority Leader Tom DeLay (R-Texas) made this proposal several weeks ago and now appears to be gaining some support among Republican colleagues.

**Senate Environment and Public Works:** James Inhofe, (R-Okla.) will continue to serve as chair of the Senate Environment and Public Works (EPW) Committee, whose jurisdiction includes transportation reauthorization. Inhofe is the former mayor of Tulsa, Okla., and brings a keen understanding of municipal issues to his position as chair of this committee. James Jeffords (I-Vt.) will also continue as the EPW ranking minority member, but Max Baucus (D-Mont.) replaces Reid as the ranking member on EPW's Transportation and Infrastructure Subcommittee. Christopher "Kit" Bond (D-Mo.), the subcommittee's chair in the 108th Congress, should retain his position this session. George Voinovich (R-Ohio) will continue serving as chair of the EPW Subcommittee on Clean Air, Climate Change and Nuclear Safety. Voinovich served as mayor of Cleveland and president of the National League of Cities prior to being elected governor of Ohio. Like Inhofe, Voinovich fully understands the needs and workings of both state and local government and brings this experience to his decisions on federal legislation. Lincoln Chafee (R-R.I.) is moving from chair of the EPW subcommittee on Superfund and Waste Management to head up the subcommittee on Fisheries, Wildlife and Water. In his new position he will have responsibility for any changes to the Clean Water Act. Prior to his election to the Senate, Chafee served as mayor of Warwick, R.I.

**House Transportation and Infrastructure:** Don Young (R-Alaska) will continue serving as chair of the 75-member House Transportation and Infrastructure (T&I) Committee, which has jurisdiction over the Clean Water Act and transportation reauthorization. Young is a strong supporter of Davis-Bacon provisions dealing with prevailing wages on federally funded projects. James Oberstar (D-Minn.) will also continue serving as T&I's ranking member. John Duncan (R-Tenn.) will remain as head of the T&I subcommittee on Water Resources and Environment. Tom Petri (R-Wisc.) will remain chair of the T&I Subcommittee on Highways, Transit and Pipelines. Committee Democrats will not announce their ranking members until later in January; Peter DeFazio (D-Ore.) is projected to be the new ranking member.

**House and Senate Commerce Committees:** On the House Energy and Commerce Committee, the leadership changes put


into effect last year after Billy Tauzin's departure will remain in place. Joe Barton (R-Texas) will remain the chair and John Dingell (D-Mich.) will remain the ranking member. Fred Upton (R-Mich.) will be chair of the Subcommittee on Telecommunications and the Internet. The ranking member will continue to be long-serving Congressman Ed Markey (D-Mass.). The Republican leadership indicated last year that they would aggressively pursue a rewrite of the 1996 Telecommunications Act. With its staffs and agendas in place from last year, the House Energy and Commerce Committee is expected to act quickly introducing legislation and holding hearings to consider modernizing the Communications Act. In the Senate Commerce Committee, changes are stirring, but they have not yet been finalized. Ted Stevens (R-Alaska) is the probable chair. On the minority side of the aisle, Sen. Fritz Hollings (D-S.C.) retired after almost 40 years in the Senate; his post will be assumed by Sen. Daniel K. Inouye (D-Hawaii). Both Stevens and Inouye have a long history on the Commerce Committee. They share an interest in services for their remote home states of Alaska and Hawaii and for universal service support to rural areas and to schools and libraries. Stevens and Inouye have not expressed intent to move as quickly as the House, but do appear poised to conduct hearings and actively consider telecommunications reform. Stevens indicated he may reorganize the committee, and may eliminate the Communications Subcommittee so that he can pursue telecommunications issues at the full committee level.

**Senate Judiciary Committee:** Another change of note within the Senate committee structure is the make-up of its Judiciary Committee. There, Arlen Specter (R-Penn) took over the reigns of the committee from Orrin Hatch (R-Utah).

**Senate Health, Education, Labor and Pensions Committee:** Mike Enzi (R-Wyo.) will take over the chairmanship of the Health, Education, Labor and Pensions (HELP) Committee. In this capacity, Enzi will oversee the reauthorization of Head Start in the coming months and any legislation amending the No Child Left Behind law. One of the Senate's leading health and education advocates, Edward M. Kennedy (D-Mass.) will remain as ranking member of HELP.

**House Education and the Workforce Committee:** As the debate of Head Start reauthorization continues, John Boehner (R-Ohio) will remain as chair of the Education and Workforce Committee and Michael Castle (R-Del.) will continue his role as the Education Reform Subcommittee chair. Both were proponents of the White House proposal to block grant Head Start to the states. George Miller (D-Calif.) will remain as ranking member of the committee. He was a leader in the campaign against the state Head Start block grant proposal.

**Senate Subcommittee on Labor, HHS and Education Appropriations:** In light of his appointment as chairman of the Senate Judiciary Committee, it remains to be seen whether Arlen Specter will remain on as the chair of the Senate Subcommittee on Labor, HHS and Education. In the past Specter has been very supportive of funding of many programs important to cities, including afterschool and the Individuals with Disabilities Education Act (IDEA). Tom Harkin (D-Iowa), a leading supporter of full funding of IDEA, is expected to remain ranking member of Labor/HHS/Education.



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# Parliamentary Procedure

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Before new motions are proposed, the minutes should be checked to ascertain if the new motion conflicts with previous action of the assembly since the effect of the new motion may conflict with prior actions and positions.

## Conclusion

The League recommends that every member of an assembly, regardless of its function or purpose, study and master rules of parliamentary procedure. The assembly will operate more smoothly and each member will be aware of personal rights as well as the rights of other members. The rights and privileges of all members will be better protected and promoted if this is done. The rules are based on logic which everyone can learn and apply with a little bit of homework. The effort put on homework will be most rewarding to the individual as well as to his or her associates.

Municipal officials should likewise be aware of statutory requirements so their actions will be valid. Certain actions taken by municipal governing bodies are legal only upon compliance with such statutory provisions. ■

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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, 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 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 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.

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 affected governments statewide. ■



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