

Final Report on the 2003 Regular Session

The Alabama Legislature adjourned sine die on Monday, June 16, 2003. During the session, a total of 1322 bills were introduced of which 268 received final passage. By comparison, in 2002, a total of 1289 bills were introduced of which 282 received final passage. In 2001, a total of 1586 bills were introduced and 302 were passed. Many of the bills receiving final passage were appropriation bills or local bills affecting a single county or municipality.

The League commends Lt. Gov. Lucy Baxley, House Speaker Seth Hammett, Senate President Pro Tem Lowell Barron, House Speaker Pro Tem Demetrius Newton and the other House and Senate leaders for their leadership during this session.

Final Status of the League Legislative Package

The following proposals in the League's 2003 Legislative Package were approved this session:

MUNICIPAL ELECTION LAW AMENDMENTS (HB174, Act 2003-400). This League bill would revise municipal election procedures. Among other things, the bill would provide the following: (1) For printing in certain notices of municipal elections the residency requirements for persons running for municipal office; (2) That municipalities using electronic vote counters would be exempt from the requirement that municipalities provide one voting machine or box per ward; (3) For the number of ballot boxes or voting machines required in certain municipal run-off elections; (4) That municipal election officials appointed to serve at a polling place other than their regular polling place would be permitted to vote by absentee ballot; (5) That municipalities may appoint additional election officials to receive, count, and record absentee ballots in municipal elections; (6) That municipalities operating on eastern time may designate that polling places open and close on eastern time; (7) That, in all elections, including municipal elections, poll watchers may not disturb or attempt to influence voters in any way; (8) That an official list of qualified voters be furnished to the absentee election manager at least 35 days before a municipal election; and (9) For the method of petitioning for a recount in municipal elections. The League wishes to thank Rep. Jack Venable for sponsoring this bill in the House and Sen. Bobby Denton for sponsoring the companion bill in the Senate.

ADEM –FEDERAL CLEAN WATER ACT (HB434, Act 2003-397). Under existing law, the Alabama Department of Environmental Management may bring enforcement actions for violations of regulations or permits adopted or issued under the Alabama Water Pollution Control Act and may resolve those actions through an administrative process without filing a lawsuit in state court. This bill would conform the state administrative enforcement process to the federal Clean Water Act; would add requirements for the department to provide the public with notice and an opportunity to comment on a proposed administrative order assessing a civil penalty, to hold a hearing before an order is finalized under certain conditions, and to provide notice of the issuance of a final order; would increase the period for appeal of the order to the Environmental Management Commission, allow any aggrieved party who submitted written comments on a proposed administrative order assessing a civil penalty to obtain a hearing on the

order before the commission, and allow persons who participated as parties in the hearing before the commission to seek judicial review of the action of the commission. The League wishes to thank Rep. Jim Carnes for his help in sponsoring this bill for the League.

The League wishes to thank the following persons for sponsoring League bills this session: Representatives. Steve McMillan, Bill Dukes, Ron Johnson, Jack Venable, Victor Gaston, Steve Clouse, Betty Carol Graham, Nelson Starkey, James Thomas, Jim Carnes, and Senators Tommy Ed Roberts, Bobby Denton, Zeb Little, Hank Sanders, Phil Poole, Larry Means, and Hap Myers.

Status of Dangerous Legislation

A number of bills introduced during the 2003 Regular Session were adverse to the interests of municipal government. The League was successful in amending or defeating these proposals.

General Bills Passed

Speed Limits in Construction Zones (HB47, Act 2003-344). Under existing law, the State Department of Transportation is authorized to set speed limits in construction zones on urban and rural state highways, and fines for speeding in these construction zones are doubled under certain circumstances. This bill would provide the same authority to counties with regard to county roads and highways. This bill would further provide that the provisions of this law will only apply when construction personnel are present as evidenced by appropriate signs with flashing amber lights.

Polling Hours (HB59, Act 2003-337). This bill amends Section 17-7-5.1, Code of Alabama 1975, relating to the hours of holding elections, to require each polling place to open at 7:00 A.M. and close at 7:00 P.M. with certain exceptions.

Recompiled State Constitution (HB60, Act 2003-312). Directing the Code Commissioner to prepare an official recompilation of the Constitution of Alabama of 1901, and to have the document published; designating such published document as the Official Recompilation of the Constitution of Alabama of 1901, as amended; and providing if such document conflicts with the Constitution of Alabama of 1901, that the Constitution of Alabama of 1901, shall prevail.

Restoration of Voting Rights (HB104, POCKET VETO). This bill provides for the restoration of voting rights for certain persons who fulfill the conditions of the sentence or conditions required by the state Board of Pardons and Paroles. It provides for retroactive application and specifically repeals Section 17-3-10 of the Code of Alabama 1975.

CA – Election Recounts (HB113, Act 2003-339). This bill provides for an automatic recount of votes in a general election for any public office if a candidate is defeated by a difference of not more than one half of one percent of the total votes cast for the office. It also amends Sections 17-13-6 and 17-16-31, Code of Alabama 1975, to provide further for reporting results of primary and general elections.

Alabama Scrap Tire Environmental Quality Act (HB186, Act 2003-332). This bill relates to the regulation of scrap tire disposal and recycling in Alabama. It provides for the Alabama Scrap Tire Environmental Quality Act to comprehensively regulate scrap tire accumulations and provide for cleanup and remediation of all scrap tire accumulations. The bill authorizes the Alabama Department of Environmental Management, the Alabama Department of Economic and Community Affairs, the Alabama Department of Revenue, and the Scrap Tire Commission to administer and enforce the act. It prescribes a scrap tire environmental fee on the sale of replacement tires and create a Scrap Tire Fund to receive the proceeds of the fee for the administration of the act. The bill provides certain administrative powers, rules, and regulations to administer this act. It prohibits certain actions related to scrap tire accumulations and prescribes civil remedies and criminal penalties for violations of this act. The bill supersedes and repeals Sections 22-40-1 to 22-40-11, inclusive, Code of Alabama 1975, providing for the Scrap Tire Study Commission.

Voter ID (HB193, Act 2003-381). This bill would require individual voters to present certain identification at the polls. It exempts certain voters voting by absentee ballot pursuant to federal law and provides for challenged or provisional balloting. The bill provides for criminal penalties for certain violations.

Police Jurisdiction – Islands (HB329, Act 2003-388). This bill amends Section 11-40-10 of the Code of Alabama 1975, relating to the police jurisdiction of municipalities, to further provide that the police jurisdiction of a municipality which extends to include part of an island adjacent to the boundary of Florida would, upon approval of the council of the municipality, extend to include all of the island including certain adjacent waters.

Homeland Security (HB335, Act 2003-276). Enacting the Alabama Homeland Security Act of 2003; expressing legislative findings and purposes; creating the Department of Homeland Security and specifying its functions and powers; creating the Director and Deputy Director of Homeland Security and specifying the duties and powers of these officers; providing for employees of the department; specifying additional powers of the director when the Governor declares a state of emergency under the authority of Section 31-9-8; authorizing the director to accept certain services, equipment and supplies; specifying control of appropriated funds and grants, excepting grants listed in 42 U.S.C. § 5121 through 42 U.S.C. § 5206, the Robert T. Stafford Disaster Relief Act; creating a Homeland Security Task Force; exempting certain information from public disclosure; creating a joint legislative oversight committee; specifying certain governmental immunity; prescribing criminal penalties; upon executive order of the Governor authorize the expenditure by the Department of Public Safety, Alabama Bureau of Investigation, and to the Criminal Justice Information Center in the amount of one hundred thousand dollars (\$100,000) each for the purpose of funding implementation and participation in the Integrated Automated Fingerprint System.

SAFE Program (HB336, Act 2003-305). To amend Section 41-14-35, Code of Alabama 1975, relating to security for the obligations of state depositories, to modify the list of securities and instruments that are eligible to be used as collateral for state moneys held in state depositories, to provide that Federal Home Loan Bank letters of credit provided as collateral for public deposits

shall be held by the State Treasurer rather than by a third-party custodian and may be drawn by the State Treasurer when necessary to cover losses to public depositors, to confirm that collateral eligible to secure state money held in state depositories shall be eligible collateral for public deposits under the SAFE Program subject to the authority of the State Treasurer to disapprove any such collateral, and to clarify that the State Treasurer has the right to disapprove of any collateral for public deposits in any circumstance in which the State Treasurer determines that the collateral is not sufficiently marketable.

Municipal Wet-Dry Elections – Ordinances (HB345, Act 2003-277). To establish a procedure to be used by the governing body of any Class 1, 2, or 3 municipality or any municipality of 18,500 people or more which is wet that has annexed territory located in a dry county to determine the wet-dry status of the annexed territory located in a dry county.

Taxability of Public Safety Death or Disability Benefits (HB375, Act 2003-394). This bill would amend existing state law to clarify that certain death or disability compensation paid on behalf of peace officers or firemen is in the nature of workers' compensation to comply with a specific exclusion in the Internal Revenue Code at 26 USC §104.

Help America Vote Act (HB419, Act 2003-313). Relating to elections; to provide that the Secretary of State shall be the chief elections official in the state; to amend Sections 17-4-127, 17-4-129, 17-4-130, 17-4-136, 17-4-138, 17-4-150, 17-4-151, 17-4-187, 17-4-210 to 17-4-214, inclusive, 17-4-230, 17-4-231, 17-4-250, 17-4-252 to 17-4-255, inclusive, 17-5A-4 to 17-5A-6, inclusive, 17-7-13, 17-8-43, 17-9-23, 17-10-4, 17-10-5, as last amended by Act 2001-1097 of the 2001 Fourth Special Session, 17-10-9, 17-10-10, 17-10-23, 17-14-1, 17-14-20, 17-16-31, 17-16-35, 17-16-36, and 17-20-4, Code of Alabama 1975, to provide further for statewide voter registration; to provide further for the qualifications and duties of registrars and for the list of qualified voters in the precincts; to authorize the Secretary of State to prescribe forms and promulgate and implement administrative rules for compliance with the "Help America Vote Act of 2002" and this act; to place the Office of Voter Registration under the Secretary of State; to provide further for reidentification of voters; to provide further for the State Voter Registration Advisory Board; to provide further for coordination of the state driver's license database with the state voter registration list and the federal Social Security Administration; to provide further for canvassing returns and declaring the results of certain elections; to provide for provisional voting; to provide further for absentee balloting and voting by military and overseas voters; to provide for certain voter identification; to establish a Help America Vote Fund in the State Treasury and make an appropriation from the fund to the Secretary of State for the fiscal year ending September 30, 2003; to provide for a committee to assist the Secretary of State in implementing the "Help America Vote Act of 2002"; to provide criminal penalties for certain violations; to provide that each voting system used in an election shall satisfy certain federal requirements on or before January 1, 2005; and to repeal Sections 17-11-1 to 17-11-4, inclusive, 17-12-1 to 17-12-8, inclusive, 17-16-23, and 17-16-24, Code of Alabama 1975.

Theft of Property (HB491, Act 2003-355). Under existing law, theft of property, theft of lost property, theft of services, receiving stolen property and utility theft are defined according to the value of the property or services stolen or received; however, these amounts are not consistent. In 1992, when the minimum threshold level for theft of property in the second degree, a Class C

felony, was raised from property exceeding \$100 in value to property exceeding \$250, and theft of property in the third degree, a Class A misdemeanor, was changed from property not exceeding \$100 to property not exceeding \$250, no corresponding changes were made in the other theft statutes or the crime of receiving stolen property. Therefore, a person stealing property of more than \$100, but less than \$250, will be guilty of a Class A misdemeanor, while a person receiving this same property will be guilty of a Class C felony. This bill would raise the property values in various theft statutes, including the theft of property whose value cannot be ascertained, theft of property, theft of lost property, theft of services, theft of utility services and receiving stolen property to redefine these offenses by increasing the threshold and ceiling amounts for the value of property stolen or received. The bill would also raise the value involved for the crimes of criminal mischief in the first degree, criminal mischief in the second degree, criminal mischief in the third degree, defacement of public property, offenses against intellectual property, fraudulent leasing or rental of property, identity theft in the first and second degrees, charitable fraud in the first degree, charitable fraud in the second degree, charitable fraud in the third degree, illegal possession of food stamps in the first degree, illegal possession of food stamps in the second degree, and illegal possession of food stamps in the third degree.

Municipal Wet-Dry Elections (HB512, POCKET VETO). This bill provides for municipal option elections in municipalities of 5,000 or more and provides that if a municipality with a population of 5,000 or more votes to allow the sale of alcoholic beverages, then every other municipality in the county having a population of 4,000 or more may conduct a similar election.

Abandoned Motor Vehicles (HB555, Act 2003-402). This bill amends Sections 12-19-76, 32-13-1, 32-13-3, 32-13-4, and 32-13-6, Code of Alabama 1975, relating to abandoned motor vehicles, to provide that the statute would be applicable to trailers. It provides that the Department of Revenue would provide the name and address of the owners and lien holders when the vehicle has been towed, and provides for the report of sale to the register or circuit clerk when a vehicle has been sold and for the fee.

CA – Segregation/Poll Taxes (HB587, Act 2003-203). This bill proposes an amendment to delete those remaining "Jim Crow" provisions of the Constitution of Alabama of 1901, which have not been expressly repealed by vote of the people.

Alabama Land Recycling Finance Authority (HB629, Act 2003-403). This bill relates to the creation and operation of a revolving loan program to encourage and assist the voluntary remediation and redevelopment of contaminated property in rural and urban areas of the state. It adds Chapter 30F to Title 22, Code of Alabama 1975, creating the Alabama Land Recycling Finance Authority, to be administered by the Alabama Department of Environmental Management.

Sales Tax – Nexus (HB650, Act 2003-390). To establish the conditions under which foreign business entities with in-state affiliates have nexus in this state.

Class 5 Mayor/Commission/City Manager City – Inoperable Vehicles (HB772, Act 2003-358). This bill relates to Class 5 municipalities which have adopted the Mayor/Commission/City Manager form of government. It authorizes the municipalities to provide for the abatement and

removal of inoperable motor vehicles as public nuisances from private property; and provides immunity for good faith actions taken pursuant to the act.

Clean Indoor Air Act (SB126, Act 2003-314). This bill establishes the Alabama Clean Indoor Air Act to prohibit smoking in certain public places. It requests that employers adopt a smoking policy and provide smoke-free areas in places of employment. It prescribes penalties for violations.

Skateboarding – Liability (SB430, Act 2003-399). The purpose of this bill is to recognize the inherent risks involved in participation in skateboarding and roller skating activities and to impose certain responsibilities for those involved in skateboarding and roller skating activities and those operating skateboard or roller skating parks or rinks. It limits civil liability arising out of the death, injury, or damages resulting from participating, assisting, or observing skateboarding or roller skating in parks or rinks; provides for exceptions; and provides for required sign warnings.

Retirement – Prior Service Credit (SB519, Act 2003-376). Under existing law, a reopening for purchase of prior service credit in the Employees' Retirement System (ERS) pursuant to Section 36-27-71 of the Code of Alabama 1975, by members of local units covered under the ERS currently requires a member eligible to purchase such prior service credit to pay the full actuarially determined cost for each year of service purchased as determined by the system's actuary. This reopening became effective on December 28, 2001. Prior to December 28, 2001, a member of a local unit who was eligible to purchase prior service credit in the ERS pursuant to Section 36-27-71 could purchase the credit by paying a lump sum based on a percentage of his or her current annual compensation or final average salary, whichever was greater. This bill would allow a member who was eligible to purchase this prior service credit before December 28, 2001, to have an opportunity once again to purchase the credit for a sum based on an applicable percentage of his or her current annual compensation or final average salary, whichever is greater.

Proposed Constitutional Amendments

HB124, Act 2003-126 - Calhoun County court costs

HB361, Act 2003-122 - Barbour County industrial and economic development powers

HB457, Act 2003-125 - Walker County – Corridor X

HB506, Act 2003-121 - Shelby County gated subdivisions

HB514, Act 2003-120 - Tuscaloosa County retirement for public officials

HB585, Act 2003-123 - Shelby County Probate Judge – Equity Jurisdiction

HB599, Act 2003-128 - Calhoun County school tax continued

HB660, Act 2003-124 - Macon County bingo

HB666, Act 2003-129 - Crenshaw County industrial and economic development powers

HB680, Act 2003-205 - Russell County Board of Education

HB720, Act 2003-127 - Marshall County ad valorem Tax for volunteer fire departments

HB740, Act 2003-204 - Hale County retirement for public officials

SB221, Act 2003-186 - Crenshaw County industrial and economic development powers

SB321, Act 2003-186 - Baldwin County industrial and economic development powers
SB499, Act 2003-189 - Marshall County ad valorem tax

Local Bills

HB18, Act 2003-162 - Lauderdale County court costs
HB119, Act 2003-145 - Mountain Brook special ad valorem tax for schools
HB120, Act 2003-152 - Compensation of Henry County Revenue Commissioner
HB132, Act 2003-158 - Ozark ad valorem tax for schools
HB163, Act 2003-343 - Jefferson County retirement
HB164, Act 2003-173 - Calhoun County – office of constable abolished
HB183, Act 2003-153 - Compensation for Henry County Board of Registrars
HB207, Act 2003-147 - Montgomery – street renamed
HB208, Act 2003-148 - Montgomery – street renamed
HB209, Act 2003-171 - Montgomery – street renamed
HB211, Act 2003-159 - Montgomery – street renamed
HB272, Act 2003-212 - Shelby County Commission government
HB317, Act 2003-146 - Shelby County ad valorem tax for education
HB326, Act 2003-155 - Pike County recording system
HB330, Act 2003-215 - Anniston police & firefighters retirement system
HB331, Act 2003-222 - Lawrence County Commission districts
HB333, Act 2003-216 - 10th Judicial Circuit deputy DA's
HB349, Act 2003-154 - Florence ad valorem tax for education
HB372, Act 2003-315 - Shelby County noise ordinances
HB412, Act 2003-156 - Chambers County Board of Registrars & County Commission compensation
HB413, Act 2003-200 - Chambers County coroner compensation
HB414, Act 2003-172 - Birmingham ad valorem tax
HB416, Act 2003-266 - Escambia County oil & gas severance tax
HB424, Act 2003-149 - Escambia County ad valorem tax
HB448, Act 2003-198 - Washington County emergency medical rescue board
HB449, Act 2003-166 - Washington County tag issuance fee increase
HB455, Act 2003-175 - Jefferson County – publication of names of municipal employees
HB461, Act 2003-224 - Chilton County Board of Education membership decreased
HB462, Act 2003-217 - Chilton County Commission election from single-member districts
HB466, Act 2003-195 - Madison County beer tax
HB473, Act 2003-144 - Perry County ad valorem tax
HB474, Act 2003-218 - Coffee County Commission – election districts
HB492, Act 2003-143 - Lowndes County sales & use tax
HB568, Act 2003-333 - Montgomery County & municipalities of 5,000 or more – council staff
HB578, Act 2003-250 - Lawrence County recording fees
HB582, Act 2003-201 - Shelby County court costs
HB583, Act 2003-267 - Prattville sales & use tax
HB586, Act 2003-202 - Autauga County recording fees
HB596, Act 2003-168 - Choctaw County tobacco tax

HB612, Act 2003-335 - Henry County alcohol sales near churches & schools
HB613, Act 2003-361 - Calhoun County sales & use tax outside municipalities and PJs
HB615, Act 2003-197 – Butler County one-stop tag purchase
HB616, Act 2003-219 - Butler County Revenue Commissioner – office established
HB634, POCKET VETO - Jackson County – transfer of water from Tennessee River Basin
HB638, Act 2003-248 - Chambers County tobacco tax
HB639, Act 2003-220 - Clay County tobacco tax
HB640, Act 2003-213 - Randolph County tobacco tax
HB675, Act 2003-274 - Montgomery – certain department heads exempt from personnel system
HB687, Act 2003-373 - Blount County fire & emergency medical service districts
HB689, Act 2003-321 - Tuscaloosa police & firefighter retirement
HB691, Act 2003-268 - Randolph County lodgings tax
HB704, Act 2003-184 - Etowah County sales & use tax
HB711, Act 2003-360 - St. Florian – municipal option election authorized
HB713, Act 2003-236 - Baldwin County Sunday sales of alcohol for off-premise consumption
HB716, Act 2003-269 - Chilton County lodgings tax
HB717, Act 2003-237 - Chilton County sales & use tax
HB721, Act 2003-235 - Marshall County TVA in-lieu-of-taxes
HB735, Act 2003-227 - Lauderdale County compensation of revenue & license commissioner
HB745, Act 2003-281 - Clarke County tobacco tax
HB747, Act 2003-377 - Tuscaloosa County ad valorem tax for volunteer fire departments
HB752, Act 2003-284 - Elmore County Commission authorized to comply with Omnibus Pay Act
HB753, Act 2003-285 - Elmore County junkyards
HB754, Act 2003-367 - Coosa County volunteer fire departments
HB756, Act 2003-286 - Shelby County tobacco tax
HB757, Act 2003-287 - Chambers County ad valorem tax
HB758, Act 2003-293 - Randolph County court costs
HB759, Act 2003-294 - Clay County recording fee
HB762, Act 2003-291 - Russell County vehicle registration fee
HB763, Act 2003-325 - Phenix City Board of Education
HB765, Act 2003-386 - Phenix City form of government
HB766, Act 2003-292 - Bullock County Board of Registrars compensation
HB769, Act 2003-288 - Jefferson County sales tax for civic center
HB773, Act 2003-326 - Cleburne County commission districts
HB774, Act 2003-323 - Cleburne County tobacco tax
HB776, Act 2003-387 - Dothan mayor’s vacancy
HB779, Act 2003-329 - Marengo County tobacco tax
SB26, Act 2003-252 - Perry County court costs
SB291, Act 2003-255 - Lowndes County Board of Registrars compensation
SB350, Act 2003-362 - Local Option elections in municipalities in Cherokee County
SB404, Act 2003-260 - Cherokee County Judge of Probate compensation
SB427, Act 2003-207 - Montgomery county and city draft or keg beer
SB463, Act 2003-257 - DeKalb County county commission staggered terms
SB479, Act 2003-188 - Russell County Board of Education redistricting

SB502, Act 2003-238 - Baldwin County Sunday alcoholic beverage sales
SB511, Act 2003-368 - Montgomery County retirement system
SB512, Act 2003-308 - Baldwin County Judge of Probate filing fees increased
SB513, Act 2003-307 - Marshall County Revenue Commissioner compensation
SB514, Act 2003-310 - Baldwin County court costs
SB516, VETOED - Shelby County tobacco tax
SB517, Act 2003-208 - Phenix City Sunday sales of alcoholic beverages
SB520, Act 2003-317 - Russell County motor vehicle issuance fees
SB522, Act 2003-382 - Phenix City form of government
SB524, Act 2003-319 - Rainsville sales tax
SB526, Act 2003-318 - Rainsville sales tax
SB529, Act 2003-374 - Tallapoosa County ad valorem tax

Annexation Bills

HB213, Act 2003-214 – Eutaw
HB273, Act 2003-165 - Center Point
HB481, Act 2003-160 - Florence
HB562, Act 2003-170 - Loxley
HB633, Act 2003-211 - Bridgeport & Stevenson
HB651, Act 2003-234 - Gulf Shores
HB655, Act 2003-223 - Coaling
HB656, Act 2003-221 - Vance
HB686, Act 2003-270 - Shorter
HB702, Act 2003-228 - Anniston
HB710, Act 2003-232 - Luverne
HB722, Act 2003-278 - Courtland
HB736, Act 2003-230 - Southside
HB771, Act 2003-324 - Spanish Fort
HB780, Act 2003-330 - Collinsville
SB237, Act 2003-253 - Luverne
SB380, Act 2003-262 - Bridgeport & Stevenson
SB460, Act 2003-264 - Decatur
SB492, Act 2003-309 - Stevenson