

Final Report on the 1994 Regular Session

The 1994 Regular Session of the Alabama Legislature adjourned sine die on April 25, 1994. A number of bills of interest to cities and towns were enacted during the session. When the legislature adjourned on April 25, a total of 1618 bills had been introduced and 390 had been enacted. By comparison, in 1993, 1683 bills were introduced and 438 received final passage. Many of those receiving final passage were appropriation bills or local bills affecting a single county or municipality.

Final Status of the League Legislative Package

The 1994 Regular Session was a very successful one for the League and its members. The Legislature approved 8 bills in the League's 1994 Legislative Package. In addition, a number of other positive measures were approved. Those League bills that received final approval were:

Wastewater Funding (H. 172, Act 94-486). The general fund budget contained a \$1 million appropriation to be used as matching funds for the State Revolving Loan Fund for Wastewater Treatment.

Utility Board Sales Tax Exemption (H. 718, Act 94-711). To exempt public corporations formed under Article 9 of Chapter 50 of Title 11 of the Code of Alabama 1975, for the purpose of operating water, sewer, gas, or electric systems from sales, use, and similar gross receipts taxes; to provide for a retroactive effective date.

Commercial Development Authorities (S. 27, Act 94-323). To grant all municipalities authority to create commercial development authorities pursuant to Sections 11-54-170 and 11-54-171 of the Code.

CA - Retirement (H. 58, Act 94-607). This League bill proposes a Constitutional Amendment to prohibit establishment of supernumerary positions and to allow those affected officials to participate in the Employees' Retirement System. This bill would reestablish the right for mayors to participate in the retirement system.

Business Licenses (H. 93, Act 94-644). This League bill increases the issuance fee for city privilege licenses to \$5.00 and increases the maximum penalty for doing business without a license to \$500. The amendment is not self-executing. Each municipal governing body will have to amend their ordinances to take advantage of the new law.

Police Officer Immunity (H. 319, Act 94-640). To grant all peace officers, except constables, the same tort liability immunity as given to all or any state officers not constitutional officers. The bill provides that the immunity shall extend only to such officers and their appointing authorities, and not to private employers of peace officers during their off duty hours.

The law requires employers of off duty peace officers to have at least \$100,000 liability insurance in force to indemnify any acts of such peace officer. Failure to have such insurance in force shall make individual owners or general partners or corporate officers of the employer liable for all acts taken by such peace officer in the line and scope of such private employment.

Handgun Violations (H.424, Act 94-635). To amend Section 11-45-1.1 of the Code to specify the authority of the municipal courts to exercise concurrent jurisdiction with the district courts over violations of state handgun laws which are prosecuted as violations of municipal ordinances.

Municipal Liability (H. 423, Act 94-641). To amend Section 11-47-190 of the Code, which relates to tort liability judgments, so as to provide that no recovery may be had under any judgment or combination of judgments, whether direct or by way of indemnity under Section 11-47-24, or otherwise, arising out of a single occurrence, against a municipality, and/or any officer or officers, or employee or employees, or agents thereof, in excess of a total \$100,000 per injured person up to a maximum of \$300,000 per single occurrence, the limits set out the provisions of Section 11-93-2 notwithstanding..

The League wishes to thank Senate Presiding Officer Ryan deGraffenried, Speaker Jimmy Clark, Rules Committee Chairs Rep. Tommy Carter and Sen. Don Hale for assisting the League by making sure League measures got considered in the final days of the session. We also thank our sponsors and those who handled our bills on the House and Senate floors: Sens. Bobby Denton, George Bolling, Jeff Underwood, Charles Langford; Sundra Escott-Russell, Jabo Waggoner, Hinton Mitchem, and Reps. Jane Gullatt, Tommy Carter, Skippy White, Nelson Starkey, Perry Hooper, Jr., Steve McMillan, Bobbie McDowell, Tony Petelos, and Walter Penry.

Several bills in the League package were not approved this session including bills related to the sunshine law, zoning notice publications, mandates, military leave, and training reimbursements. These bills will probably be reintroduced in future sessions.

Status of Dangerous Legislation

Many bills considered during the 1994 Regular Session were deemed dangerous to the interests of municipal government. We are happy to report that those measures deemed most dangerous to municipalities failed to pass this session. However, we can expect to see bills relating to law officer bill of rights, law officer stress, solid waste, inverse condemnation, initiative, recall, occupational tax restrictions, license tax restrictions, repeal of city sales tax exemptions, repeal of city authority to levy tobacco taxes, law officer minimum pay, duplication of water systems, and smoking in public places to be introduced in future sessions.

General Bills Passed

Civil Rights (H. 7, Act 94-581) Providing for the imposition of additional penalties on a person committing a crime and motivated by the victim's actual or perceived race, color, religion, national origin, ethnicity, or disability.

Alienation of Public Improvements (H. 8, Act 94-480). To provide further for the ordinance or resolution describing the proposed alienation of certain public improvements by political subdivisions.

County Medical Clinic Boards (H. 16, Act 94-642). To authorize the incorporation of medical clinic boards by county governing bodies.

Public Contracts (H. 17, Act 94-207). To increase the amount before public construction contracts are required to be bid to \$20,000. To increase the dollar amount of personal property that can be purchased without bids from \$5,000 to 7,500.

Sales Tax Exemption - Magic Moments (H. 28, Act 94-212). To exempt Magic Moments from all county and city sales and use taxes.

Dissolution of Municipalities (H. 41, Act 94-167). To amend Section 11-41-20 of the Code providing the procedure for the dissolution of a municipal corporation having a population of 1100 or less so as to provide that the legislature may by local law provide an alternative procedure.

Sales Tax Exemption - L'Arche-Mobile, Inc. (H. 85, Act 94-94). To exempt L'Arche-Mobile, Inc. from payment of all state, county and municipal sales and use taxes.

Class 3 - Nude Dancing (H. 110, Act 94-585). To authorize any county with a Class III municipality to prohibit, by ordinance, topless, bottomless, or nude dancing for monetary consideration and prescribing penalties for enforcement.

Motor Boat Sales & Use Tax (H. 123, Act 94-622). To levy a sales and use tax on certain motorboats and to provide for the collection thereof.

Local Government Training Act (H. 140, Act 94-598). To provide for training of local elected county officials.

Sales Tax Exemption - Mobile Arts and Sports Association (H. 236, Act 94-119). To exempt Mobile Arts and Sports Association from payment of all state, county and municipal sales and use taxes.

Class 4 - Board Members (H. 249, Act 94-133). To allow an increase in the composition of the waterworks and sewer board and the board of education in any Class 4 municipality which has adopted the mayor-council form of government pursuant

to Chapter 43B, Title 11 of the Code.

Firefighter Benefits (H. 359, Act 94-250). To provide for administration of certain death benefits for firefighters by the State Board of Adjustment.

Juveniles (H. 433, Act 94-481). Amends the law pertaining to the prosecution of juveniles as adults.

Railroad Crossings (H. 477, Act 94-582). Under existing law, the Department of Transportation is given authority to abandon or discontinue a grade crossing of a railroad on any portion of a state highway or a street on a state highway route. This bill would expand the authority of the Department of Transportation to abandon, close, or discontinue a grade crossing of a railroad on a private, municipal, or county highway, street, or right-of-way. The bill would provide for written notice to an owner or to the county or municipality where the crossing is located and for legal notice to be published concerning any crossing proposed to be closed. The bill would also provide for a public hearing by the Department of Transportation upon the petition of a person alleging to be adversely affected by the closing.

CJIS (H. 482, Act 94-578). To authorize the Alabama Criminal Justice Information Center to adopt policies concerning arrest and criminal history information that conform to policies of the National Crime Information Center of the FBI.

Class 1 Cities - Planning Commission (H. 490, Act 94-672). To provide further for the compensation of planning commission members in Class 1 cities who are neither elected nor employees of the city.

Sales Tax Exemption - Natural Gas (H. 534, Act 94-720). To exempt natural gas used by certain persons for agricultural purposes from state sales taxes.

Sales Tax Exemption - Mission of Hope, Inc. (H. 559, Act 94-218). To exempt Mission of Hope, Inc. of Mobile from all county and municipal sales and use taxes.

Court Costs - Jails (H. 584, Act 94-694). This bill would authorize a municipal governing body to levy additional court costs and fees on certain municipal cases in the municipal boundaries exclusively for the operation and maintenance of the municipal jail or jails, other correctional facilities, if any, any juvenile center, or court complex. The bill would also allow municipalities to join together to jointly construct, maintain and equip a jail.

Unemployment Compensation (H. 594, Act 94-718). To amend the workers compensation law to provide further for restrictions on extended benefits and eligibility requirements for benefits in order to conform with federal law.

Class 2 City - Parking (H. 596, Act 94-254). To provide for the incorporation of a parking authority in a Class 2 City.

Human Resources Appropriation (H. 609, Act 94-476). To make a supplemental and additional appropriation to the Department of Human Resources for the Human Services Program for the FYE September 30, 1994, from the following sources of funds: ABC Profits in the amount of \$83,487 and the Whiskey Tax in the amount of \$3,271,251.

Special Districts (H. 626, Act 94-707). To authorize any district organized pursuant to Chapter 89 of Title 11 of the Code to carry out one or more, but not all, of its authorized services through one or more corporations organized pursuant to this act.

Class 5 Cities - Prichard (H. 730, Act 94-697). To provide further for the salaries of certain personnel employed by the Mayor of Prichard.

Sales Tax Exemption - Friends of Magnolia Cemetery, Inc. (H. 559, Act 94-218). To exempt Friends of Magnolia Cemetery, Inc. of Mobile from all county and municipal sales and use taxes.

Class 1 Cities - Police Pension (H. 759, Act 94-658). To provide for certain minimum monthly payments for certain beneficiaries under the Policemen's Pension and Relief Fund in a Class 1 city.

Worker's Comp - False Statements (H. 780, Act 94-653). To provide for the offense of making false statements to obtain worker's comp benefits.

Low or Moderate Income Definition (H. 788, Act 94-676). To amend Section 11-96A-2 of the Code of Alabama to define low or moderate income person or family as a person or family with incomes that do not exceed the level of 100 percent of the median income of the applicable area.

UC - Disqualifications (H. 814, Act 94-719). To provide for disqualification for unemployment compensation benefits due to dismissal for testing positive for the use of illegal drugs.

Retirement - Past Service (H. 851, Act 94-721). To reopen the Employees Retirement System of Alabama to allow certain persons under the system to purchase credit for past service.

Class 1 City - Self-Help Business Improvement District (H. 872, Act 94-677). To authorize Class 1 cities to establish Self-Help Improvement Districts.

Absentee Voting (S. 8, Act 94-320). This bill amends the state absentee ballot laws.

Speed Limits (S. 37, Act 94-617). To provide that the speed limit on unpaved roads shall be 35 miles per hour except as

otherwise provided.

Retirement Cost-of-Living (S. 76, Act 94-232). To provide a cost-of-living increase for certain members and the beneficiaries of the teachers' and employees' retirement systems.

DUI - 4th Offense (S. 85, Act 94-590). To increase the penalties and sanctions for a fourth and subsequent conviction of the offense of driving under the influence of alcohol and drugs.

Regional Planning & Development Commissions (S. 87, Act 94-574). To expand the powers and duties of regional planning and development commissions.

Boating Safety (S. 280, Act 94-652). To establish the Alabama Boating Safety Reform Act of 1994.

Code Supplement Adoption (S. 292, Act 94-305). To adopt and incorporate into the Code of Alabama those general and permanent laws enacted during the 1992 Second Special and 1993 Regular Session.

Underground Utilities (S. 299, Act 94-487). To require prior notice of excavations and demolitions in order to protect underground utilities.

Utility Relocation (S. 390, Act 94-340). Under existing law, when a utility facility has to be relocated for a highway project other than a federal interstate project, if the facility is owned by a utility which has a gross income of not more than \$50 million during the year after relocation, the cost of relocation is paid by the state as a part of the cost of construction of the project. This bill would raise the gross income limit of a utility qualifying for the relocation assistance to \$75 million.

Retirement System Board of Control (S. 590, Act 94-616). To require that the three appointees of the Governor on the Board of Control of the Employees' Retirement System of Alabama be merit system employees with at least 10 years of creditable state service and not be a department head or assistant department head. The bill would also require that the elected members of the investment committee be elected from the members of the board who have had at least three years of service on the board.

Class 6 Cities - Council-Manager (S. 605, Act 94-352). To amend Section 11-43A-9, Code of Alabama 1975, relating to council districts in Class 6 cities with a council-manager form of government.

Class 4 - Annexation (S. 653, Act 94-561). To provide an alternate form of annexation for Class 4 cities.

Class 4 - Water & Sewer Fees (S. 654, Act 94-537). To authorize Class 4 cities to charge additional fees for water and

sewer service.

Proposed Constitutional Amendments

- H. 49, Act 94-348 -- Fire districts in Tallapoosa County.
- H. 63, Act 94-204 -- Incorporation of a regional airport authority by the City of Red Bay and Franklin County with counties in Mississippi.
- H. 100, Act 94-612 -- County ad valorem tax officials participation in a retirement system in lieu of participating in a supernumerary program.
- H. 106, Act 94-447 -- Election of Cullman City Board of Education.
- H. 238, Act 94-53 -- Barbour County court costs for jails.
- H. 336, Act 94-613 -- Judicial Inquiry Commission.
- H. 403, Act 94-446 -- Recognition of significant contributions to public education.
- H. 429, Act 94-85 -- Sumter County court costs.
- H. 659, Act 94-344 -- Barbour County court costs.
- H. 687, Act 94-346 -- Covington County fire protection.
- H. 688, Act 94-349 -- Basic Rights for crime victims.
- H. 693, Act 94-355 -- Limits police jurisdiction and planning and zoning powers of municipalities located partially within Lee County.
- H. 704, Act 94-347 -- Huntsville-Madison County Marina and Port Authority.
- H. 714, Act 94-312 -- Mountain Brook ad valorem taxes.
- H. 722, Act 94-611 -- Corrects the problem caused by the recent ruling of the U.S. Justice Department concerning the state's method of adopting local constitutional amendments.
- H. 727, Act 94-342 -- Autauga County Probate Judge compensation.
- H. 729, Act 94-260 -- Winston County government salaries and charges.
- H. 740, Act 94-343 -- Shelby County debt.
- H. 749, Act 94-483 -- Elmore County fire protection.
- H. 755, Act 94-606 -- Houston County bingo.
- H. 768, Act 94-353 -- Blount County fire districts.
- H. 797, Act 94-356 -- Calhoun County industrial development.
- S. 573, Act 94-354 -- Covington County bingo.

Local Bills

- H. 66, Act 94-135 -- Bingo in Etowah County.
- H. 73, Act 94-394 -- Cigarette tax in Escambia County.
- H. 75, Act 94-621 -- Birmingham Retirement System.
- H. 80, Act 94-136 -- Contacts by Calhoun County Tax Collector and Tax Assessor with governmental entities.
- H. 95, Act 94-82 -- Russell County ad valorem taxes.
- H. 96, Act 94-81 -- Russell County fire districts.
- H. 101, Act 94-393 -- Jefferson County bingo.
- H. 112, Act 94-114 -- Nonbinding referendum on location of Subtitle D landfill in Lamar County.
- H. 129, Act 94-137 -- Distribution of taxes in Washington County.
- H. 146, Act 94-83 -- Economic development in Lawrence

County.

- H. 243, Act 94-567 -- Birmingham Retirement System.
- H. 264, Act 94-132 -- Regulates certain entertainment in Calhoun County.
- H. 265, Act 94-134 -- Authorizes Athens to waive certain fees for the Habitat for Humanity.
- H. 298, Act 94-557 -- Beer and Ale in Coosa County.
- H. 325, Act 94-623 -- Birmingham Police and Firemen's Pension Fund.
- H. 329, Act 94-566 -- Birmingham Library Board.
- H. 370, Act 94-395 -- Madison County ad valorem taxes.
- H. 506, Act 94-217 -- Dissolution of Wilmer.
- H. 528, Act 94-351 -- Madison County parks and recreation areas.
- H. 533, Act 94-715 -- Birmingham Council expenses.
- H. 607, Act 94-664 -- Birmingham Firemen's and Policemen's Supplemental Pension System.
- H. 619, Act 94-521 -- Police jurisdiction of cities located partially within Lee County.
- H. 685, Act 94-564 -- Jefferson County Personnel System.
- H. 735, Act 94-546 -- Barbour County solid waste fees.
- H. 738, Act 94-401 -- Talladega civil service system.
- H. 761, Act 94-460 -- Geneva County ad valorem taxes.
- H. 789, Act 94-341 -- Shelby County real estate licenses.
- H. 798, Act 94-549 -- Anniston Police and Firemen's Retirement Fund.
- H. 800, Act 94-550 -- Choctaw County sales tax.
- H. 859, Act 94-559 -- Randolph County sales and use tax.
- H. 885, Act 94-548 -- Calhoun County Municipal Court costs.
- H. 902, Act 94-554 -- Tuscaloosa County sales and use taxes.
- H. 922, Act 94-668 -- Orrville beer tax revenues.
- H. 925, Act 94-712 -- Dallas County gasoline tax.
- H. 930, Act 94-700 -- Sumter County hazardous waste fees.
- S. 397, Act 94-197 -- Mobile County Civil Service System.
- S. 421, Act 94-198 -- Perry County ad valorem taxes.
- S. 651, Act 94-535 -- Tuscaloosa County sales and use tax.
- S. 652, Act 94-536 -- Tuscaloosa County limited home rule.
- S. 655, Act 94-538 -- Tuscaloosa County gas tax formula.
- S. 656, Act 94-539 -- Cities in Tuscaloosa County may charge for fire service outside police jurisdiction.
- S. 659, Act 94-540 -- Class 7 Cities in Covington County power to abate nuisances and weeds.

Annexation Bills

- H. 88, Act 94-95 -- Hartselle
- H. 405, Act 94-120 -- Ozark
- H. 539, Act 94-670 -- Graysville
- H. 588, Act 94-390 -- Thomasville
- H. 733, Act 94-252 -- Bayou La Batre
- H. 734, Act 94-253 -- Bayou La Batre
- H. 857, Act 94-558 -- Demopolis
- H. 920, Act 94-696 -- Moody
- H. 931, Act 94-675 -- Gainesville
- S. 521, Act 94-247 -- Ozark
- S. 623, Act 94-533 -- Tuscaloosa
- S. 636, Act 94-534 -- Demopolis