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## Legislative Process

In law school we have all been taught by the Socratic method of case analysis, except in a few courses such as taxation and the UCC. Legislation is no longer a required course and, in most law schools, is not even offered. As a lawyer, one is often called upon to be involved in the legislative process without having been trained in or having the knowledge of how it works.

In 1979, then Representative Joe McCorquodale, speaker of the house of representatives, asked the Law Institute to write a book about the legislative process since there was no text on state legislatures. In school, students are taught about Congress and the three branches of federal government with only an aside "... and states also have three branches of government."

Lawyers, more than any other group of citizens, often are involved in the legislative-drafting process. Alabama's failure to provide Home Rule not only requires knowledge of the legislative process for general laws that affect all 4.6 million Alabamians, but also knowledge of how local laws are enacted. Our smallest county, Greene County, with a population of 9,374 people, must submit their local bills to the entire legislature for scrutiny.

# LEGISLATIVE WRAP-UP

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The Alabama Law Institute is the State of Alabama's major law revision agency. In 2007, over 125 lawyers on eight Law Institute committees, drafted, or are in the process of drafting, major revisions of law for the Alabama legislature. The following major revisions are pending before the 2008 Regular Session of the legislature:

1. Redemption from Ad Valorem Taxes;
2. Uniform Revised Limited Partnership Act;
3. Uniform Prudent Management of Institutional Funds;
4. Uniform Anatomical Gift Act;
5. Uniform Parentage Act;
6. Uniform Satisfaction of Residential Mortgages; and
7. Alabama Business and Non-Profit Entities Code.

This is the first time in 152 "Legislative Updates" that we have delineated how these revisions become law and how the legislative process works in Alabama.

For a bill to become enacted into law it must go through the following process:

1. It must be introduced by a legislator in one house of the legislature and assigned to a committee. This is the bill's *first reading*.
2. It must be placed on the committee agenda on a succeeding Wednesday for consideration. Citizens have an opportunity to attend and be heard before the committee. At this committee hearing the bill may be amended. The approval by the committee and the committee report, when delivered back to the house, constitutes the *second reading*.
3. The next step is for the bill to be considered by the entire legislative body of one of the houses. Generally, 1,500 bills are being introduced at the same time. In order for a bill that has received its second reading to be considered before bills sent to the body earlier, the bill must be placed on a "special order" calendar. For uncontested local bills, the legislative rules provide they are to be considered before general bills each day. These are the bills affecting only one county that

have been endorsed by all legislators who represent any part of the county. Once the bill is brought up for a vote, this constitutes a *third reading*.

4. After passage by the house of origin, the bill must follow the same process in the second house. The bill must be received by the second house and read by title for its *first reading*.
5. Next, it must be sent to the second house committee to be reviewed again as in the first house. Citizens again have the right to attend and be heard. The committee may further amend the bill. Once approved, the bill is referred back to the second house and this constitutes a *second reading*.
6. The second house must also place the bill on their calendar for consideration by the entire body. Generally, the bills originating in a particular house are considered before addressing the other house's bills. Typically, this is in the last two weeks of the session. When the bill is finally considered by the second house and is passed, it has received its *third reading*.
7. When both houses of the legislature have passed the same identical bill, it is sent to the governor for signing. It is not until after the governor has signed the bill that it *becomes law*.

Each of these steps occurs on a separate calendar day with only the possibility of steps three and four occurring within the same calendar day.

This year, and in 2009, the legislature begins on the first Tuesday in February. The legislature is generally in session on Tuesday and Thursday of each week. On Wednesday the legislative committees meet. This continues for 15 weeks, adjourning around the third Monday in May.

Lawyers and other citizens can have an influence on the passage or defeat of legislation by making their position known to their legislator. Each senator and representative has an office in Montgomery where they may also be visited during the session, Tuesday through Thursday, when the legislature is not meeting.

Legislators do not have individual staff. Two senators share a secretary, and approximately 15 house members must share the services of a secretary in the secretarial pool. Each of the 15 house committees has a committee clerk. The Law Institute supplies a lawyer and an intern to the committee during the session. The Senate Judiciary and Governmental Affairs committees have lawyers provided by the Law Institute during the session. Other senate committees have not requested lawyers, but two of them do have interns provided by the Institute.

The house of representatives has 11 lawyers out of 105 members. Of the 35 senators, 12 are lawyers.

The Alabama Law Institute, at the request of the speaker of the house of representatives, provides seven interns to assist house members to provide constituent services. Teresa Norman, intern coordinator and assistant director at the Law Institute, directs these interns and other interns assisting the house and the senate.

The biggest change to the legislative process in the past 25 years has been the proliferation of paid lobbyists. In particular, there has been a significant increase in contract lobbyists who may work for multiple clients or to affect a particular piece of legislation. In 2007, there were 659 lobbyists registered, representing 781 interest groups that are registered with the Alabama Ethics Commission. The state Ethics Commission has only 13 employees to keep track of these lobbyists and review the more than 30,000 annual filings of economic statements by public officials and state employees.

The legislative process is not a mystery. There is only one way to pass a bill and that is persistence and to see that each step, one through seven, is followed. The mystifying part is why good bills do not always pass. The answer is simple. There are hundreds of ways to defeat a bill by delaying, amending or carrying over the bill to a later date, or just failing to schedule the bill for consideration in any of steps two, three, five or six. In recent years, the bar, lawyers and citizens have expressed an interest in statewide issues such as constitutional reform, tax reform, court reform, judicial selection

reform, and indigent defense. Talking personally with your legislator, knowing the legislative process and being goal-oriented with a sense of urgency is the best way to be involved and to affect legislation.

Alabama has some really fine legislators. Many of these are lawyer-legislators who have leadership roles.

In the senate the following lawyers are chair of these committees:

1. Senator Roger Bedford—Finance and Taxation General Fund
2. Senator Hank Sanders—Finance and Taxation Education Fund
3. Senator Zeb Little—Majority Leader
4. Senator Rodger Smitherman—Judiciary
5. Senator Ted Little—Fiscal Responsibility and Accountability
6. Senator Wendell Mitchell—Governmental Affairs
7. Senator Pat Lindsey—Constitution, Campaign, Finance, Ethics & Elections and a second committee on Economic Expansions & Trade
8. Senator Myron Penn—Confirmations
9. Senator Bobby Singleton—Tourism and Marketing

In the house of representatives these lawyers have taken leadership positions:

1. Representative Demetrius Newton occupies the number two spot as speaker pro tem.
2. Representative Ken Guin—chair of the Rules Committee and majority leader
3. Representative Cam Ward—vice chair of the Minority Caucus
4. Representative Marcel Black—Judiciary
5. Representative Marc Keahey—Contract Review

If you want to know about the legislative process in Alabama, the *Legislative Process, Handbook for Alabama Legislators*, 9<sup>th</sup> Edition and *Alabama Legislation*, 6<sup>th</sup> Edition are available from the Law Institute. ▲▼▲