



Robert L. McCurley, Jr.

## 2007 Regular Session

The session began with a pay raise and ended with a fight. The public saw little in-between. The legislators' pay raise is set by the constitution at \$10 a day, plus one-round-trip-per-session mileage reimbursement at ten cents a mile.

In 1967, legislators received \$300 in expenses per month. This was adjusted four years later to \$400, then the next session to \$600, then in 1987 to \$1,900, where it remained for eight years until it was raised to \$2,280. It remained there until this year when the monthly expenses were increased to \$3,850 per month and will be adjusted annually to reflect the increase in the cost of living as indicated by the Department of Labor and Consumer Price Index.

As indicated in the July 2007 *Alabama Lawyer*, in the first two-thirds of the session the public read little about anything the legislature was doing except to continually hear about the pay raise. It was probably for good reason since the legislature had only passed Sunset bills, an appropriation for Enterprise High School and two other pieces of legislation. On the 28<sup>th</sup> and 29<sup>th</sup> days, the senate passed over 200 bills with most of these being local legislation. When the legislature ended, both houses of the legislature had passed 294 bills of the 2,363 bills introduced, with 274 of them becoming law. This amounted to 11.6 percent of the bills introduced actually becoming law.

Of these 274 bills that became law, approximately 90 percent of them were local laws affecting only one county, Sunset bills that continued regulatory agencies, a special appropriation or a bill that affected a limited segment group of individuals, not the state at large.

### **The legislature addressed several items of general concern to the practicing bar.**

HB-68 (Act 2007-147)—Codification of the 2006 Regular Session Acts that are found in the pocket parts.

HB-180 (Act 2007-455)—Authorized the issuance of \$10,000,000 in bonds to repair the Judicial Building, specifically to repair the roof and other structural damage to the building.

HB-899 (Act 2007-487)—Created the Legislative Building Authority to direct the building renovation of the State House. The state is currently renovating the old Department of Public Safety Building in front of the Capitol for the Attorney General's Office. This will leave vacant floors three and four of the State House. The bill conveys the State House to be the property of the Legislative Building Authority.

### **Of particular interest to lawyers are the following Acts:**

HB-51 (Act 2007-281)—Allows small loan companies to charge a delinquent fee of \$10, or 5 percent of the scheduled payment, not to exceed \$18 or 5 percent of the payment that is in default as an additional late fee.

HB-56 (Act 2007-283)—Alabama Uniform Estate Tax Apportionment Act for the apportionment of estate taxes. Affects persons receiving an interest in property upon the death of the decedent. The Act does not change the amount of estate taxes, only who will pay the tax. (See *Alabama Lawyer*, July 2007 for a summary of this Act.)

HB-185 (Act 2007-364)—Amends Section 34-27-30.1 to provide that a real estate company is required to have a license where the company has a place of business within the municipality. It further prohibits a municipality from charging a privilege tax to a real estate sales person who does not have an office in the city but merely comes into the city to sell property.

HB-223 (Act 2007-457)—The Act amends Section 13A-5-9.1 to provide when the sentencing judge is no longer in office, any circuit judge appointed by the presiding judge can consider early parole of any nonviolent offender.

HB-242 (Act 2007-365)—Amends Section 34-11-1 to remove the requirement that a professional engineer be licensed in Alabama in order to testify in a civil case.

HB-426 (Act 2007-464)—The Alabama Uniform Environmental Covenants Act. This provides a way of recording the covenant in the probate record. (See *Alabama Lawyer*, May 2007 for a summary of this Act.)

HB-739 (Act 2007-366)—Amends Section 40-18-21 to provide for an income tax credit for income taxes paid to foreign countries, with respect to business income attributable to the foreign country.

SB-4 (Act 2007-381)—Amends sections 40-2-18, 40-3-16, 19, 20, and 40-7-25 which extend the time for filing objections to notice of evaluation for taxes from ten days to 30 calendar days from the date of receiving notice of reevaluation.

SB-265 (Act 2007-391)—Amends Section 15-25-2 to allow for videotaped depositions of a victim or witness under 16 years of age out of the presence of the defendant. The following persons are now authorized to be in the room with the child: the prosecuting attorney; an attorney for the defendant, parent or person who contributes to the wellbeing of the child; and other persons at the discretion of the court. Also, when necessary, the operator of the videotaping equipment may be there.

SB-412 (Act 2007-504)—Amends sections 40-2A-7 and 9 to lower the supersedeas bond required to 125 percent of the amount of the final assessment of the judgment and provide alternatives for filing the supersedeas bond. It also provides the taxpayer who fails to satisfy the requirements of the bond would have 30 days to cure any deficiency.

SB-425 (Act 2007-404)—Amends Section 7-9A-321 concerning the recording of secured transactions and the form of financing statement which is to be filed with the Secretary of State's Office to protect a security interest in farm products.

## Items that particularly affect teachers and state employees:

HB-208 (Act 2007-282)—The General Fund;

HB-213 (Act 2007-361)—The Special Education Trust Fund that funds all of education;

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HB-387 (Act 2007-297)—Pay raise for state employees;

HB-385 (Act 2007-296)—Pay raise for teachers;

HB-283 (Act 2007-293)—Allows state employees to donate leave for catastrophic sick and maternity leave from one employee to another. This amended Section 36-26-35.2.

HB-520 (Act 2007-275)—Provides for a one-time lump sum addition to retirement benefits for those who retired prior to December 14, 2007 in an amount equal to \$1 per month for each year of service obtained by the retiree.

## Other bills of general interest that may affect the public at large:

HB-60 (Act 2007-224)—Amends the banking law to restrict who may operate as a bank. This bill sought by the Banking Department, Banking Association and banks.

HB-123 (Act 2007-452)—This establishes a center for alternative fuels as an information clearing house for federal grants, alternative fuels, etc.

HB-139 (Act 2007-488)—Provides that people seeking to run for county commissioner must have resided in the county for one year, any vacancies shall be filled by an appointment of the governor, appointments shall last only until the next general election and the term of office will begin on the second Tuesday following the general election of which the person is elected. It further provides that a majority of members of the county commission will constitute a quorum, and the county commission may employ a chief administrative officer who carries out the administrative duties of the county and performs specified responsibilities.

HB-141 (Act 2007-133)—Made a supplemental appropriation to the Enterprise City School System to help repair tornado damage and provides that the funds are to be repaid out of insurance or FEMA Funds.

HB-155 (Act 2007-285)—Concerns the Port Authority by redefining the boundaries of the Port Authority;

HB-244 (Act 2007-291)—Provides for community service grants of \$13.8 million to be distributed to communities through the Joint Legislative Oversight Committee on Community Service Grants.

HB-250 (Act 2007-258)—Amends the law to increase the amount that may be paid as a director's fee for a water, gas or electric system board. The amount may not exceed \$200 per meeting (raised from \$100) and the chair receives up to \$300 per meeting.

HB-423 (Act 2007-463)—Authorizes students to be able to give themselves medication as prescribed by the State Department

of Education and the Alabama Board of Nursing Medication Curriculum under certain guidelines.

HB-664 (Act 2007-199)—Economic Incentive Act provides for an abatement of taxes for an industry that will employ at least 2,000 full-time on-site employees, provided the company will have a new investment in Alabama of \$2.5 billion.

SB-62 (Act 2007-196)—Allows for firearms to be sold and delivered to nonresidents from any state which will allow residents of Alabama to sell and deliver rifles, shotguns and ammunition in their state. Any purchaser of firearms or ammunition may send these out of the state or have them delivered to his place of business. Currently, it is only in adjoining states.

SB-244 (Act 2007-279)—Authorizes the increase of the revolving loan bond authority from \$12 million to \$24 million dollars for the purpose of making grants to the 12 regional planning and development commissions.

SB-255 (Act 2007-389)—Requires insurance companies who do business in Alabama to offer coverage for prostate cancer early detection.

SB-313 (Act 2007-395)—Permits a person who is 17 years old or older to donate blood without the permission of a parent, and a person who is 16 years old to donate blood with the permission of a parent.

SB-464 (Act 2007-408)—Provides that the owners of private land on which there is a cemetery or grave must grant access to a cemetery on their property. Further permits a county or city to establish an authority for the maintenance of neglected cemeteries.

## The Governor's veto may have a more lasting effect than most of the bills that passed.

The following bills passed the legislature but were pocket vetoed by Governor Riley:

SB-167—Increased Alabama state employees per diem from \$75 per day to \$125 a day.

HB-122—Amended the state ethics law to include persons who lobby the executive branch of government.

SB-202—Increased the minimum limits for insurance for motor vehicles from \$20,000 to \$50,000 for bodily injury and from \$40,000 to \$100,000 for injury or death to two or more persons. Also, increased property damage from \$10,000 to \$20,000.

The following are local bills that were vetoed:

SB-458—Colbert County Community Development Commission and Community Development Funds established.

SB-199—DeKalb County Community Development Commission and Community Development Funds established.

HB-957—Cullman County Community Development Commission and Community Development Fund established.

HB-959—Franklin County Community Development Commission and Community Development Fund established.

SB-486 and HB-621—This provides that a Class 5 Municipality may only change from forms of government consistent with a specific enabling legislation.

SB-490—Provides for an election to fill vacancies on the Russell County Commission.

HB-804—Local bill for Perry County to authorize the sale of alcoholic beverages in the county.

HB-817—Russell County local bill authorizing the increase in sale and use taxes.

For the first time, the Governor exercised the right to a “*line item*” veto, a provision in an appropriation bill. The Governor lined out \$1,000,000 for roads that were designated in Senator Phil Poole’s district. The legislature was unable to cut off debate to consider overriding the veto.

## 2007 Alabama Law Institute Bills

HB-56—Apportionment of Estate Taxes, Representative Cam Ward, enacted

HB-426—Uniform Environmental Covenants Act, Representative Jeff McLaughlin, enacted

HB-11—Uniform Satisfaction of Residential Mortgages, Representative Mike Hill, died in committee

HB-12—Redemption from Ad Valorem Tax Sales, Representative Mike Hill, passed house of representatives—died on senate calendar

HB-926—Uniform Anatomical Gift Act, Representative Demetrius Newton, introduced for familiarization only

HB-927—Uniform Prudent Management of Institutional Funds Act, Representative Demetrius Newton, introduced for familiarization only

HB-928—Uniform Parentage Act, Representative Demetrius Newton, introduced for familiarization only

HB-940—Uniform Revised Lt. Partnership Act, Representative Demetrius Newton, introduced for familiarization only

## Institute Annual Meeting

At the Institute Annual Meeting Friday, July 20, 2007, the following were elected:

President—Representative Demetrius Newton

Vice President—Senator Roger Bedford

Executive Committee:

Representative Marcel Black

David Boyd

Jim Campbell

Bill Clark

Peck Fox

Fred Gray

Representative Ken Guin, Jr.

Senator Rodger Smitherman

Representative Cam Ward

Emeritus members:

Richard S. Manley

Oakley W. Melton, Jr.

Yetta G. Samford, Jr.

The institute program, “Incentives for Attracting Industry to Alabama,” was presented by Neal Wade, director of the Alabama Development Office; Richard Cater, general counsel and assistant finance director; and George Howell, retired director of economic development for the Department of Revenue.

Representative Demetrius Newton, Senator Roger Bedford, Representative Jeff McLaughlin and Representative Cam Ward reviewed the 2007 legislative session.

## Institute Opens Montgomery Office

In September, the Alabama Law Institute opened an office in the State House to assist house committees in their interim studies. **Teresa Norman** will manage the office as assistant director and intern coordinator.

For more information contact Bob McCurley, director of the Alabama Law Institute, at P.O. Box 861425, Tuscaloosa 35486-0013, fax (205) 348-8411, phone (205) 348-7411 or at the Web site, [www.ali.state.al.us](http://www.ali.state.al.us). ■

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Robert L. McCurley, Jr. is the director of the Alabama Law Institute at the University of Alabama. He received his undergraduate and law degrees from the University.