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ALABAMA'S LEGISLATIVE PROCESS

by

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1963-2011

Senate Document No. 3
Revised 2011

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HISTORICAL SECTION**

In order to understand the legislative process, it is necessary to know something about the nature of the lawmaking body itself.

There are 140 members of the Legislature: 105 members of the House of Representatives and 35 Senators, whose districts are based upon population. The current districts were realigned based on the 2000 census. After the 2010 census, the Legislature will pass legislation redistricting, according to population shifts and increases/decreases. This new redistricting legislation will take effect, commencing with the 2014 legislative elections. Under the Constitution of the United States, the Legislature also has the duty of redistricting Alabama's congressional seats, based upon the same census data.

The salary of legislators is fixed by the Constitution at \$10.00 per day, plus expenses in an amount fixed by the Legislature (see below). A travel allowance of \$.10 per mile from the member's home to the Capitol and return is paid once for each legislative session. The current allowance for expenses is \$50.00 per diem for three days during each week that the Legislature actually meets during any regular session, special session or organizational session, and \$4,174.00 per month expenses, year-round, with an automatic cost-of-living increase each April 1st.

Each member is also paid \$50.00 per diem for the performance of his or her duties as a member of any duly authorized interim legislative committee or subcommittee thereof, conditional upon actual attendance, and 51 cents per mile for one round trip per week of actual attendance at such interim committee meetings. Standing Committees may meet between legislative sessions and are paid for these meetings in the same manner as state employees are reimbursed for travel.

To be eligible for the office of State Senator, a person must be at least 25 years of age; for the office of Representative, at least 21 years of age. Both Senators and Representatives must be qualified voters and must have been resident citizens of Alabama for three years. They must have lived in their respective counties or districts at least one year immediately preceding their election. They must continue to reside in their respective counties or districts during their terms of office. No person convicted of embezzlement of public money, bribery, perjury, or other infamous crimes is eligible for membership in the Legislature. Each house has the power to punish its members, and with the concurrence of two-thirds of the Chambers, a member may be expelled. A member who is expelled for corruption is not thereafter eligible for membership in the legislature.

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Defendant Exhibit No. 156

Members of the Legislature are privileged from arrest and service of civil process while attending or going to or from a legislative session, except in cases of treason, felony, violation of their oath of office, or breach of peace. Any remarks made in a speech or debate on the floor of either house by a member cannot be questioned in any other place.

Members of the Legislature serve for terms of four years. They are elected on the first Tuesday after the first Monday in November, with the most recent election occurring in 2010.

The office of legislator is unique in that the term begins on the day after the election and expires on the day after the election four years later. The terms of Constitutional Officers such as Governor, Lieutenant Governor, Secretary of State, etc. begin and end in the month of January.

Because the terms of all members of the Legislature begin and end at the same time, the newly elected and reelected members must reorganize the Legislature every four years soon after their election. This is done in what is known as "organizational" sessions. These sessions begin on the second Tuesday in January following the election of members of the Legislature, and are limited to ten consecutive calendar days. No business can be transacted at this session except the organization of the Legislature, the election of officers, the appointment of standing and interim committees, the determination of contested elections, and the canvassing of election returns.

At these organizational sessions, each house of the Legislature chooses its officers and adopts its rules of procedure; appoints the members of the various "standing" committees, or committees of the Legislature established to perform certain duties for the entire four-year term of the Legislature. The Lieutenant Governor is the President and Presiding Officer of the Senate. The Senate selects one of its members to preside in the event the Lieutenant Governor is absent at any time. This member is called the "President Pro Tempore", or temporary president. Other officers and employees are elected and appointed for each house; in the Senate, they are Secretary of the Senate, Assistant Secretary of the Senate, and other personnel as deemed necessary.

The Legislature convenes in regular annual sessions on the first Tuesday in February, except (1) in the first year of the four-year term, when the session will begin on the first Tuesday in March, and (2) in the last year of a four-year term, when the session will begin on the second Tuesday in January. The length of the regular session is limited to 30 meeting days within a period of 105 calendar days. There are usually two meeting or "legislative" days per week, with other days devoted to committee meetings. Special sessions of the Legislature may be called by the Governor, with the Proclamation listing the subjects which the Governor wishes considered. These sessions are limited to 12 legislative days within a 30 calendar day span. In a regular session, bills may be enacted on any subject. In a special session, legislation must be enacted only on those subjects which the Governor announces in his proclamation or "call." Anything not in the "call" requires a two-thirds vote of each house to be enacted.

The Constitution provides that no law shall be passed except by a bill, which is a proposed law written out in the proper form. When approved by the legislative body and the Governor, the bill becomes an act. The lawmaking process begins with the introduction of the bill in either the House of Representatives or the Senate. Bills may be introduced in either house, with one limitation---bills which increase or decrease revenue must originate in the House of Representatives.

The order of business in each house provides a time for the introduction of bills. In order to give the people of a particular locality advance notice of the intent to introduce a bill affecting that locality, the Constitution provides that local and special bills (that is, those bills which apply to a particular named locality) must be advertised in a newspaper published in the county affected (or posted if there is no newspaper) for four consecutive weeks before introduction. Documentary proof that this notice has been provided is required before a local or special bill may be introduced. This process is known as Notice and Proof.

Bills are assigned consecutive numbers, as introduced, to facilitate identification. No bill can become an act until it has been read on three separate days in each house. Upon introduction, a bill is usually read by title only, constituting the first reading of the bill. Because a bill is usually read by title only, it is important that the title give the members notice of the subject matter contained in the bill.

All legislative bodies operate mainly through committees in doing their work of considering

bills. Committee action is probably the most important phase of the legislative process. The framers of the present Constitution of Alabama were conscious of the importance of the committee system, and inserted a provision in the Constitution stipulating that no bill may be enacted into law until it has been referred to, acted upon by, and returned from, a standing committee in each house. Reference to committee immediately follows the first reading of the bill. Bills are referred to committees by the Lieutenant Governor and the President Pro Tempore in the Senate, and by the Speaker in the House of Representatives.

The Constitution states that each house shall determine the number of committees and the numbers vary from quadrennium to quadrennium. Each is set up to consider bills relating to a particular subject of legislation. A bill dealing with health matters, for example, would be referred in both houses to the committee on health; a bill dealing with schools would be referred to the committees on education. Other committees deal with such subjects as business and labor, public welfare, conservation, agriculture, governmental affairs, local legislation, etc.

Standing committees are charged with the important responsibility of examining bills and recommending action to the Senate or House. Usually on days when the Legislature is not in session, the committees of each house meet and consider the bills that have been referred to them to decide if the assigned bills should be reported for a second reading.

For most bills, the recommendations of the committee are followed, although either house is free to accept or reject the action of the committee. Bills reported favorably by a committee are placed on the regular calendar.

After a committee has completed work on a bill, it reports the bill to the house during the reports of committees in the daily order of business. Reported bills are immediately given a second reading. The houses do not vote on a bill at the time it is reported; however, reported bills are given a second reading and are placed on the calendar for the next legislative day. This second reading is made by title only. Local bills concerning environmental issues affecting more than one political subdivision of the state are given a second reading when reported from the local legislation committee and re-referred to a standing committee where they are then considered as a general bill. Bills concerning gambling are also re-referred when reported from the local legislation committee but they continue to be treated as local bills. When reported from the second committee, these bills are referred to the calendar and do not require another second reading.

The regular calendar is a list of bills that have been favorably reported from committee and are ready for consideration by the membership of the entire house.

Bills are listed on the calendar by number, sponsor, and title, in the order in which they are reported from committee. They must be considered for a third reading in that order unless action is taken to consider a bill out of order. Important bills are brought to the top of the calendar by special orders or by suspending the rules. To become effective, the Resolution setting Special Orders must be adopted by a majority vote of the house. These Special Orders are recommended by the Rules Committee of each house. The Rules Committee is not restricted to making its report during the Call of Committees and can report at any time. This enables the committee, especially toward the end of the session, to determine the order of business for the house. This power makes the Rules Committee one of the most influential of the legislative committees.

Any bill, which affects state funding more than \$1,000, involving expenditure or collection of revenue must have a fiscal note. Fiscal Notes are prepared by the Legislative Fiscal Office and signed by the chairman of the committee reporting the bill. They must contain projected increases or decreases to state revenue in the event the bill becomes law.

Regardless of how a bill is reached on the calendar, when the bill is considered and adopted, this is called a third reading. It is at the third reading of the bill that the whole house gives consideration to the bill's passage. At this time, the bill may be studied in detail, debated, amended, and read at length before final passage.

After the bill has been discussed, each member casts his/her vote as his/her name is called alphabetically. The Senate is rather small, and voting may be done effectively in that house by manual roll call. The membership of the House is three times larger than that of the Senate, and individual voice votes would require a great deal of time. For this reason, an electronic voting machine is utilized in the House of Representatives. The House members vote by

pushing buttons on their desks, and their votes are registered by colored lights which flash on a board in the front of the chamber. The board contains all of their names and shows how each member voted. The votes are electronically recorded in both houses.

If a majority of the members who are present and voting in each house vote against the bill, it has failed passage. If the majority vote for the bill, it is recorded as passed. If amendments are adopted, the bill is sent to the Enrolling and Engrossing Department of that house for engrossment. Engrossment is the process of incorporating amendments into the bill before transmittal to the second house.

A bill that is passed in one house is transmitted, along with a formal message, to the other house. Such messages are always in order and are read (in the second house) at any suitable pause in business. After the message is read, the bill receives its first reading, by title only, and is referred to committee. In the second house, a bill must pass successfully through the same steps of procedure as in the first house. If the second house passes the bill without amendment, the bill is sent back to the house of origin and is ready for enrollment. If the bill is not reported from committee or is not considered by the full house, the bill is dead. However, the second house may amend the bill and pass it as amended. Since a bill must pass both houses in the same form, the bill with amendment is sent back to the house of origin for consideration of the amendment.

The house of origin, upon return of its amended bill, may take any one of several courses of action. It may concur in the amendment by the adoption of a motion to that effect; then the bill, having been passed by both houses in identical form, is ready for enrollment. Another possibility is that the house of origin may adopt a motion to non-concur in the amendment and the bill dies. Finally, the house of origin may refuse to accept the amendment but request that a conference committee be appointed. The other house usually agrees to the request, and the presiding officer of each house appoints members to the conference committee.

A conference committee meets and discusses the points of difference between the two houses and tries to reach an agreement on the bill. If an agreement is reached and if both houses adopt the conference committee report, the bill is finally passed. If either house refuses to adopt the report of the conference committee, a motion may be made for further conference. If a conference committee is unable to reach an agreement, it may be discharged, and a new conference committee may be appointed. Some highly controversial bills may be referred to several different conference committees. If an agreement is never reached in conference, the bill is lost.

When a bill has passed both houses in identical form, it is enrolled (prepared in final form for transmittal to the Governor). The enrolled copy is the official bill, which, after it becomes law, is kept by the Secretary of State for reference in the event of any dispute as to its exact language. After a bill has been enrolled, it is sent back to the house of origin, where it must be read again (unless this reading is dispensed with by a two-thirds vote), and signed by the presiding officer in the presence of the members. The bill is then sent to the other house where the presiding officer in the presence of all the members of that house also signs it. The bill is then ready for transmittal to the Governor.

When the bill reaches the Governor, he may sign it and thus complete its enactment into law.

If the Governor disapproves the bill, he may veto it, in which event he must return it to the house in which it originated with a message explaining his objections and suggesting amendments which will remove such objections, if it is possible to do so by amendment. The bill is then reconsidered, and if a majority of the members elected to both houses agrees to the executive amendments, it is returned to the Governor, as he revised it, for his signature.

If a majority of the members elected to each house approve a vetoed bill as the Legislature passed it, it becomes a law notwithstanding the Governor's veto.

If the Governor fails to return a bill to the house in which is originated within six days after it was presented to him (Sundays excepted), it becomes a law without his signature, unless the return was prevented by recess. In that case the bill must be returned within two days after the Legislature reassembles or it becomes a law without the Governor's signature.

Bills that reach the Governor less than five days before the end of the session may be approved by him within ten days after adjournment. Bills not approved within that time do not

become law. This is known as a "pocket veto". It is the most conclusive form of veto, for the Legislature, having adjourned, has no chance to reconsider the vetoed measure.

Alabama is one of the states in which the Governor has the power to accept or reject any particular item of an appropriation bill without vetoing the entire bill. In this event, only the vetoed item of the appropriation bill is returned to the house of origin for reconsideration by the Legislature. The remainder of the bill becomes law.

Sometimes what the Legislature wishes to accomplish cannot be done simply by the passage of a bill but requires amending the Constitution. The bill or joint resolution is drafted to propose an appropriate amendment to the Constitution. Such a bill or joint resolution is introduced in the same manner as other bills and resolutions and follows the course of ordinary bills, except that it must be read at length on three different days in each house; it must be passed in each house by a three-fifths vote of all the members elected; and it does not require the approval of the Governor. A constitutional amendment proposed by the Legislature bypasses the Governor and is deposited directly with the Secretary of State. It is then submitted to the voters of the state at an election (the time of which is fixed by the Legislature) held not less than three months after adjournment of the session in which the amendment is proposed. The Governor announces the election by proclamation, and the proposed amendment and notice of the election must be published in every county for four successive weeks before the election. If a majority of those who vote at the election favor the amendment, it becomes a part of the Constitution. The result of the election is announced by proclamation of the Governor.

One of the common misconceptions about the Legislature is that the members work only for the two or perhaps three days which the Legislature meets each week. People usually visit the Legislature on a day when the houses are in session, and wonder how it ever gets anything done in view of the apparently confused, disorganized picture presented by the legislators on the floor. What people fail to realize is that most of the work of the Legislature is done by committees. Actually, they are the backbone of the legislative process. Behind every bill of general importance considered on the floor of each house, lies many hours of careful work by the members of the standing committee to which the bill was referred. The Legislature as a whole relies on its committees to dispose of the frivolous, dangerous, or less important measures and to report out only those bills deserving the consideration of the entire house.

By working through standing committees, the legislature can have each bill considered by a group of members who have special knowledge of the content. Some members of the Legislature have expert knowledge of particular subjects of legislation, and these members are usually placed on committees to take full advantage of this specialized knowledge. For this reason, the Legislature usually accepts the recommendations of the standing committees. As has been noted, however, the Legislature does not completely abdicate its responsibility for the careful consideration of pending bills. If the need arises, the members of either house can force a committee to take action on a bill, or they can ignore the committee's recommendations.

A great deal of legislative work is performed by interim committees, or committees which are appointed to consider important subjects of legislation between the sessions of the Legislature. Interim committees are composed of members of both houses, and they meet to consider special problems that the Legislature thinks should be studied carefully before a bill is drafted for introduction.

In addition, most states, including Alabama, have a Legislative Council. This is a permanent or continuing interim committee, composed as follows: From the Senate, the Lieutenant Governor and President Pro-Tempore, the Chairmen of Finance and Taxation, Rules, Judiciary, and Governmental Affairs, and six Senators elected by the Senate; From the House of Representatives, the Speaker and Speaker Pro-Tempore, the Chairmen of Ways and Means, Rules, Judiciary, and Local Government, and six Representatives elected by the House. Also serving are the majority and minority leaders of each house. The Legislative Council meets at least quarterly to consider problems for which legislation may be needed and to make recommendations for the next legislative session. A number of significant statutes have been placed on the books as a result of the Council's activity.

There are two state agencies that are indispensable to the work of the Legislature: The Legislative Reference Service (LRS) and the Legislative Fiscal Office (LFO). LRS is the bill drafting and legal research arm of the Legislature, and LFO prepares bills and a statement of the fiscal impact on the state for each bill that is considered by the two houses. Legislators

rely on these two agencies for their expert assistance.

Twentieth century technology is making itself felt in legislative halls through the use of computers. In Alabama, legislative information is updated daily, and the current status of any piece of legislation can be retrieved in a matter of minutes. Both houses of the Legislature print their own calendars and various status reports are available, both for use by the members and staff and for the public. Legislators have laptop computers where they can access the latest information on pending matters.

In summation, the legislative process may be aptly compared with the iceberg. What the casual observer sees of the legislative process, as he/she observes the Legislature in session, is comparable to the one-eighth of the iceberg that is visible above the water. The background work of studying problems requiring legislative solution is comparable to the submerged seven-eighths of the iceberg. It is not apparent on the surface, but it is there.

This background work of study and research is probably the most important aspect of the legislative process. Its importance will increase even more as the problems of our society, with which the Legislature deals, grow ever more technical and complex.

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