Final Report on the 2011 Regular Session

The Alabama Legislature completed its 2011 Regular Session on Thursday, June 9, 2011. This year 1,606 bills were introduced and 171 bills received final passage. By comparison, in 2010, the legislature introduced 1,425 bills and 299 received final passage.

Final Status of the League Legislative Package

PUBLICATION OF MUNICIPAL ORDINANCES – SB20 by Sen. Ward (House sponsor - Rep. Williams (J)): This League bill proposes to amend Section 11-45-8 of the Code of Alabama 1975, relating to the publishing of an ordinance after passage by the municipal governing body, to further provide for the publication by certain municipalities of a notice of the substance of an ordinance relating to planning or zoning or the licensing of businesses in a newspaper under certain conditions. ACT No. 2011-618.

COMPETITIVE BID LAW – HB13 by Rep. Williams (J) (Senate sponsor - Sen. Holley): This League bill relates to competitive bidding for public works projects under Title 39 and public contracts under Title 41 of the Code of Alabama 1975; to amend Sections 39-2-1, 39-2-6, 41-16-51, and 41-16-57, Code of Alabama 1975, to define the term "life cycle costs" and to clarify the definition of a "public works project"; to allow local governments to purchase goods and services through vendors with a current and valid contract with the Government Services Administration without further competitive bidding; to provide that life cycle costs may be considered by the awarding authority in determining the lowest responsible and responsive bidder; and to clarify that the definition of personal property includes goods that are, or are to become, fixtures. ACT No. 2011-530.


penalties for violations subject to monthly reportings based on average compliance to monthly intervals. Act No. 2011-612.

**APPROPRIATION FOR WASTEWATER TREATMENT SRF** – SB133 by Sen. Orr (House sponsor - Rep. Barton): In the late 1980’s, the Alabama Legislature established a State Revolving Loan Fund for Wastewater Treatment (SRF). The purpose of the SRF was to take state funds and match them with federal dollars to create a loan fund to offer low interest loans to governmental entities for wastewater treatment projects. The General Fund Budget contained $500,000 in additional matching funds from the legislature to continue Alabama’s nationally recognized Wastewater Treatment SRF program. Act No. 2011-679.

The League wishes to thank the following persons for sponsoring League bills this session: Representatives Jack Williams, Dan Williams, Marcel Black, Barry Mask, Steve Clouse, Chris England and Rod Scott and Senators Scott Beason, Dick Brewbaker, Cam Ward, Bill Holtzclaw, Linda Coleman, Del Marsh, Jabo Waggoner and Jimmy Holley.

We also wish to thank the House and Senate leadership for their support of the League’s legislative program: Representatives Mike Hubbard, Speaker of the House; Victor Gaston, House Speaker Pro Tempore; Blaine Galliher, Chair, House Committee on Rules; James Buskey, Chair, Sub-committee of the Consent Calendar, House Committee on Rules; and Steve McMillan, Chair, House Committee on County & Municipal Government; Senators Del Marsh, Senate Pro Tempore; Scott Beason, Chair, Senate Committee on Rules; and Jimmy Holley, Chair, Senate Committee on Governmental Affairs, for their assistance and support during the 2011 Regular Session.

**Final Status of Bills with a Negative Impact on Cities and Towns**

There were a number of bills introduced this session that would have had a negative impact on municipalities had they received final passage. Bills in this category that died this session included legislation to drastically reduce business licenses derived from the sale of prescription drugs, to prohibit all occupation taxes statewide, to limit subdivision authority, to divert oil and gas funds and to increase the population requirement to form a local school board.

We can expect to see many of these bills reintroduced next session.

**General Bills of Interest to Municipalities that Passed**

**Photo ID Required to Register to Vote** – HB19 by Rep. Rich: To amend Section 17-9-30, Code of Alabama 1975, as amended by Act 2010-687, 2010 Regular Session (Acts 2010, p. 1660), relating to the identification of voters at elections; to provide that a voter must provide proof of a valid photo identification, as defined; and to require the Department of Public Safety to issue photo identification cards at no cost to individuals who have no valid photo identification. ACT No. 2011-673.
**Certain Coal Combustion By-products Exempted from Regulation as Solid Wastes** – HB50 by Rep. Canfield: To amend Sections 22-27-2 and 22-27-3, Code of Alabama 1975, relating to solid waste disposal; to remove an existing exemption from regulation for fly ash waste, bottom ash waste, boiler slag waste, and flue gas emission control wastes which result primarily from the combustion of coal or other fossil fuels at electric generating plants and authorize the regulation of those substances as a solid waste. ACT No. 2011-258.

**Immigration Laws** – HB56 by Rep. Hammon: Relating to immigration laws; to provide for the enforcement of immigration laws on the state and local level; to make the entry, presence, and involvement in economic activity of unauthorized aliens illegal in the state and to provide penalties; to require the verification of the legal status of persons; to prohibit the knowing or intentional hiring of unauthorized aliens and to provide penalties; to require participation in the federal e-verify program; to provide procedures for the immobilization or impoundment of a vehicle under certain conditions; to prohibit certain practices related to voting and registration for voting and to provide criminal penalties; to require proof of citizenship or legal residency in order to access government benefits. ACT No. 2011-535.

**Ethics – Disclosure of Public Officials or Spouses of Public Officials Employed by or Having Contracts with a Municipality, a County, or the State** – HB58 by Rep. Ball: To add Section 36-25-5.1 to the Code of Alabama 1975, to require a public disclosure of the names of public officials or candidates or spouses of public officials or candidates who are employed by the state or who have a contract with the state. Act No. 2011-674.

**CA – Mandatory Participation in any Health Care System Prohibited** – HB60 by Rep. Galliher: To propose an amendment to the Constitution of Alabama of 1901, to prohibit mandatory participation in any health care system. ACT No. 2011-617.

**CA – Secret Ballots** - HB64 by Rep. Wallace: To propose an amendment to Amendment 579 to the Constitution of Alabama of 1901, now appearing as Section 177 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, to provide that the right of individuals to vote for public office, public votes on referenda, or votes of employee representation by secret ballot is guaranteed. ACT No. 2011-656.

**Education Budget** – HB123 by Rep. Love: To make appropriations for the support, maintenance and development of public education in Alabama, for debt service, and for capital outlay for the fiscal year ending September 30, 2012. ACT No. 2011-655.

**Ad Valorem Tax – Definition of Residential Property Expanded to include Single Family Dwellings and Lots under Construction** – HB179 by Rep. Williams (J): To amend Section 40-8-1, Code of Alabama 1975, relating to classification of property for ad valorem tax purposes, to expand and clarify the definition of residential property to include single family dwellings and lots under construction for a period of time. ACT No. 2011-544.

Jobs Creation – Tax Incentives – HB230 by Rep. Galliher: To provide an incentive for job creation in Alabama; and to make legislative findings regarding the purpose of this act. ACT No. 2011-551.

Alabama Streamlined Sales and Use Tax Commission – HB355 by Rep. Hill: To establish the Alabama Streamlined Sales and Use Tax Commission to develop, implement, and administer the programs necessary to come into compliance with the Streamlined Sales and Use Tax Agreement in the event that Alabama becomes a participating member of the agreement; to provide for the commission to serve as the single entity administrator for the collection of sales and use tax in the event that Alabama becomes a participating member of the agreement; and to require the commission to research Alabama’s existing tax laws to identify what changes in existing law will be necessary in order to bring Alabama in compliance with the agreement in the event that federal legislation adopting the agreement becomes law. Act No. 2011-563.


County Communication Districts – HB389 by Rep. Boyd: To provide that one or more counties, by resolution of the governing body or bodies, may establish a radio/alert notification communications district comprised of the territory wholly within the county or, in the case of more than one county, the respective counties; to provide for a board of directors comprised of representatives from the counties comprising the radio/alert notification communications district; to provide for the powers, duties, and membership of the board; and to authorize the board to assess a fee to fund the cost of providing radio/alert notification communications within the district. Act No. 2011-675.

Motor Fuels – Tax at the Rack – HB399 by Rep. McCutcheon: To revise the motor fuel tax collection and enforcement system; to impose the tax upon the removal or withdrawal of motor fuel from the terminal using the terminal rack and not by bulk transfer, when the supplier would collect the tax from the entity ordering the removal or withdrawal; to impose the tax when motor fuel is imported into the state, other than by bulk transfer; to impose the tax on blended motor fuel at the point motor fuel is blended; to provide for the levy of the tax on certain products and provide for exemptions; and to provide for licensing and fees, for electronic filing of the returns, disposition of the proceeds of the tax, and penalties for violations. ACT No. 2011-565.

Department of Environmental Management and any state and local governmental agency to certain solid waste management facilities which receive or are intended to receive waste not generated by the permittee in order to allow adequate time for the Alabama Department of Environmental Management, the Solid Waste Management Advisory Committee, and the Alabama Department of Public Health to perform their responsibilities pursuant to Executive Order 8, and for the development of a comprehensive plan to identify the state’s solid waste management needs; and to provide a procedure to allow for a waiver to allow the issuance or modification of permits on a limited basis during the moratorium. Act No. 2011-297.


**Office of the Attorney General** – HB463 by Rep. Ball: Relating to the office of the Attorney General; to amend Sections 36-15-1, 36-15-4.2, 36-15-5.1, 36-15-6, 36-15-9, 36-15-10, 36-15-11.1, 36-15-13, 36-15-14, 36-15-16, 36-15-17, 36-15-21.1, 36-15-60, and 36-15-62, Code of Alabama 1975; to make permissive the requirement that the Attorney General provide opinions to state, county, and municipal officials upon the request of the official; to make permissive the requirement that the Attorney General examine state law for constitutional validity; to delete the requirement that the Attorney General participate in preparing the Code of Alabama; to authorize the Legislative Council to employ independent counsel to represent the interests of the Legislature; to clarify the authority of the Governor to employ personal counsel; to delete the requirement that a written contract designating the Attorney General as the recipient of any fees, fines, restitution, forfeitures, penalties, costs, interest, or judgments be reviewed by the Contract Review Permanent Legislative Oversight Committee; to authorize the Attorney General, after October 1, 2009, to accept attorney's fees, expenses, and penalties only up to an amount equal to the actual expenses of the office and to require the Attorney General to certify those amounts only to the Chairs of the Committee on Finance and Taxation General Fund and the Ways and Means General Fund Committee and the State Budget Officer; to permit attorneys licensed outside of Alabama to be appointed as deputy attorneys general; to update certain provisions relating to the employment of office employees; to remove certain provisions providing for the appointment of non full-time assistant attorneys general; to delete the requirement that such assistants maintain offices at the Capitol; to prohibit assistant and full-time deputy attorneys general from maintaining private law offices; to increase the number of non-merit employees the Attorney General may appoint; to clarify the authority of the Attorney General, deputy attorneys general, and assistant attorneys general to issue subpoenas, which may be issued at any time, whether or not a grand jury is in session, and provide for the enforcement of those subpoenas; to specify that when the Attorney General superintends and directs any criminal prosecution, the district attorney, if requested, shall assist; to authorize assistants to the Attorney General to render official opinions in the absence of the Attorney General and the chief deputy; to delete the requirement that certain specific information related to state litigation be organized in a particular manner; to provide for the status of investigators within the classified service of the state; to add Section 36-15-62.1 to the Code of Alabama 1975, to make it a crime to provide false statements relating to any matter under
investigation by the Attorney General and provide penalties. ACT No. 2011-574.

**Good Samaritan Law** – HB510 by Rep. Collins: To amend Section 6-5-332 of the Code of Alabama 1975, the Good Samaritan Law, to provide civil immunity to any person, who, in good faith and without compensation, participates in emergency response activities. ACT No. 2011-579.

**Redistricting - State Board of Education** - HB621 by Rep. McClendon: To repeal and reenact Section 16-3-1.1, Code of Alabama 1975, relating to the division of the state into State Board of Education districts, so as to redistrict the state's State Board of Education districts based upon the 2010 federal census. Act No. 2011-677.

**Electronic Overseas Voting Advisory Committee** – SB55 by Sen. Dial: Relating to elections and the provision of secure overseas absentee voting by electronic transmission; to establish the Alabama Electronic Overseas Voting Advisory Committee to determine whether a secure electronic means may be established for use by the Secretary of State to conduct overseas absentee voting; to provide a procedure for the adoption of rules by the committee and the Secretary of State for conducting overseas absentee voting; to require the committee and the Secretary of State to determine the requirements for a request and receipt of an overseas absentee ballot, for the return of a voted overseas absentee ballot, for an overseas voter certificate, for the instructions for voting an overseas absentee ballot, and for the processing of a voted overseas absentee ballot; and to require the Secretary of State to adopt rules regarding emergency overseas absentee voting rule powers and situations during which those powers may be exercised. ACT No. 2011-619.

**DUI** – SB67 by Sen. Glover: Relating to Alabama's DUI law; to amend Section 32-5A-191 of the Code of Alabama 1975; to provide for a mandatory sentence of at least double the minimum punishment for a person convicted of DUI who has 0.15 percent or more by weight of alcohol in his or her blood within four hours of operating or being in control of a motor vehicle. ACT No. 2011-621.


**Industrial Development Authority** – SB76 by Sen. Marsh: To amend Section 41-10-27, Code of Alabama 1975, to remove the requirement that a grantee receive fair market value for selling land it owns for which a grant is made. ACT No. 2011-215.

**CA – Occupational Tax Prohibited in Baldwin County** – SB99 by Sen. Pittman: To propose an amendment to the Constitution of Alabama of 1901, to prohibit the imposition of an occupational tax in Baldwin County. ACT No. 2011-268.
CA – Occupational Tax Prohibited in Tuscaloosa County – SB100 by Sen. Allen: To propose an amendment to the Constitution of Alabama of 1901, to prohibit the imposition of an occupational tax in Tuscaloosa County. ACT No. 2011-269.

Fertilizer Ordinances – SB123 by Sen. Whatley: To prohibit a county or municipal government from adopting any ordinance, rule, or resolution pertaining to the subject of fertilizers; to reserve actions relating to the entire subject of fertilizers to the Department of Agriculture and Industries; and to provide certain exceptions. ACT No. 2011-624.

Electronic Uniform Nontraffic Citation and Complaint – SB185 by Sen. Fielding: Relating to the issuance of a complaint and summons or notice to appear in court for persons arrested for misdemeanor non-traffic violations; to provide for the use of an electronic uniform non-traffic citation and complaint (eUNTCC), as an alternative method for issuing tickets; to provide for a notice to appear in court similar to the e-tickets used for traffic offenses. ACT No. 2011-628.

Alcoholic Beverages – Brew Pub Licenses – SB192 by Sen. Holtzclaw: To amend Sections 28-4A-2, 28-4A-3, 28-4A-4, and 28-4A-6, Code of Alabama 1975, the Alabama Brewpub Act, to remove certain limitations on brewpub operation and to allow brewpub licensees to sell beer brewed on-premises to a licensed wholesaler for distribution to retail licensees. ACT No. 2011-630.

Code Update – SB206 by Sen. Holley: To adopt and incorporate into the Code of Alabama 1975, those general and permanent laws of the state enacted during the 2009 First Special Session and the 2010 Regular Session as contained in the 2010 Cumulative Supplement to certain volumes of the code and 2010 Replacement Volumes 7A, 17A, 18, and 18A; to adopt and incorporate into the Code of Alabama 1975, 2010 Cumulative Supplements to local law volumes; and to specify that this adoption and incorporation constitute a continuous systematic codification of the entire Code of Alabama 1975, and that this act is a law that adopts a code; to declare that the Code Publisher has certified it has discharged its duties regarding the replacement volumes; to expressly provide that this act does not affect any other 2010 Special Session statutes or 2011 session statutes; and to specify the duties of the Secretary of State regarding the custody of these cumulative supplements and replacement volumes. ACT No. 2011-236.

Educational Warrants – SB219 by Sen. Waggoner: Relating to financing for public education, to authorize county and city boards of education to issue interest-bearing warrants for educational purposes, with the approval of the State Superintendent of Education, and payable from such revenues or tax proceeds as are lawfully available; the warrants would be sold at public or private sale, and the warrants and interest thereon are tax exempt. ACT No. 2011-631.

Ethics – SB222 by Sen. Marsh: To amend Section 36-25-7, Code of Alabama 1975, as amended by Act 2010-764, 2010 Special Session, relating to prohibited offers or gifts or the solicitation of gifts for public officers, employees, and their family members for the purpose of influencing official action, to clarify that the prohibited offer, gift, solicitation, or receipt of anything, as contemplated in Section 36-25-7, must be for the purpose of corruptly influencing official
action, and defining the term corruptly. ACT No. 2011-632.

**Education – Days of Instruction** – SB271 by Sen. Orr: To amend Section 16-13-231, Code of Alabama 1975, relating to K-12 instructional days; to allow a local board of education, upon approval of the State Superintendent of Education, to make up cancelled instructional days due to weather or other extenuating circumstances by adjusting the hours of actual instruction. ACT No. 2011-235.

**Education – Students First Act** – SB310 by Sen. Pittman: To establish the Students First Act of 2011; to provide rights, remedies, and obligations with respect to employment actions affecting or involving certain employees or categories of employees of certain educational institutions, including county and city boards of education; to repeal existing statutes that are in conflict or that are otherwise inconsistent with this bill, including, but not limited to, portions of the Teacher Tenure Law, the Fair Dismissal Act, and Section 16-24B-7, Code of Alabama 1975, relating to teacher transfers. ACT No. 2011-270.

**Redistricting – U.S. Congress** – SB484 by Sen. Dial: To repeal and reenact Section 17-14-70, Code of Alabama 1975, relating to the division of the state into congressional districts, so as to redistrict the state's congressional districts based upon the 2010 federal census. ACT No. 2011-518.

**Proposed Constitutional Amendments**

**HB60, Act No. 2011-617** – Mandatory participation in health care system prohibited.
**HB64, Act No. 2011-656** – Secret ballot for public office and employee representation guaranteed.
**HB439, Act No. 2011-352** – Madison Co. dangerous dogs in unincorporated areas.
**HB588, Act No. 2011-316** – Baldwin Co., Stockton Landmark District, boundaries defined, annexation by local law prohibited.
**SB100, Act No. 2011-269** – Tuscaloosa Co., occupational tax prohibited.
**SB112, Act No. 2011-353** – Poll taxes and segregation of schools by race deleted other Sections repealed or amended.
**SB344, Act No. 2011-301** – Marion Co. court costs.
**SB369, Act No. 2011-315** – Forever Wild Land Trust reauthorized.
**SB466, Act No. 2011-543** – Prichard, Water Works and Sewer Board.
**SB512, Act No. 2011-310** – Hale Co., additional ad valorem taxes authorized for county jail

**Local Acts**

**HB30, Act No. 2011-237** – Marengo Co. probate recording fees
HB31, Act No. 2011-238 – Marengo Co. probate judge filing fee
HB66, Act No. 2011-120 – Northport, Sunday alcohol sales authorized, referendum
HB72, Act No. 2011-119 – Daleville, sale of draft or keg beer authorized, referendum
HB73, Act No. 2011-118 – Ozark, sale of draft or keg beer authorized, referendum
HB187, Act No. 2011-239 – Escambia Co., process service fee increased
HB288, Act No. 2011-244 – Monroe Co., Internet property tax payments fee authorized
HB289, Act No. 2011-245 – Monroe Co., license tag renewal fee authorized
HB397, Act No. 2011-246 – Dothan, ad valorem tax for school authorized
HB430, Act No. 2011-251 – Jasper, sale of draft or keg beer authorized on council approval
HB431, Act No. 2011-252 – Class 5 municipalities with mayor/commission/city manager form of government, qualifying date for candidates
HB442, Act No. 2011-569 – Midfield, red light cameras authorized
HB452, Act No. 2011-319 – Shelby Co., electronic filing of taxes authorized
HB458, Act No. 2011-262 – Athens, sale of draft or keg beer authorized on council approval and regulation
HB470, Act No. 2011-320 – Colbert Co., solicitor’s fee continued
HB476, Act No. 2011-298 – Montgomery, speed limit cameras authorized
HB491, Act No. 2011-322 – Winfield, theater board for Pastime Theater authorized
HB511, Act No. 2011-580 – Center Point, red light cameras authorized
HB515, Act No. 2011-584 – Birmingham, police and firefighter pension system investments
HB521, Act No. 2011-585 – Birmingham, police and firefighter pension system investments
HB530, Act No. 2011-263 – Pike Road, ad valorem tax for schools, referendum
HB539, Act No. 2011-587 – Montgomery Co., service of process fee
HB540, Act No. 2011-588 – Lee Co., sales and use tax outside corporate limits authorized
HB559, Act No. 2011-324 – Chilton Co., court costs increased
HB562, Act No. 2011-299 – Washington Co., solicitor’s fee authorized equal to Fair Trial Tax Fund
HB563, Act No. 2011-590 – Phenix City, police chief authorized to sale unclaimed property
HB567, Act No. 2011-300 – Calhoun Co., court costs
HB570, Act No. 2011-325 – Clay Co., coroner expense allowance
HB571, Act No. 2011-326 – Clay Co., pistol permits fee increased
HB574, Act No. 2011-328 – Shelby Co., ordinances relating to county property
HB575, Act No. 2011-591 – Madison Co., pistol permits fee increased
HB583, Act No. 2011-330 – Shelby Co., court costs increased
HB584, Act No. 2011-331 – Shelby Co., solicitor’s fee authorized equal to Fair Trial Tax Fund
HB585, Act No. 2011-332 – Shelby Co., solicitor’s fee, distribution to municipal court
HB586, Act No. 2011-593 – Bibb Co., use of County Capital Improvement Fund authorized
HB587, Act No. 2011-663 – St. Florian, Sunday alcohol sales authorized
HB590, Act No. 2011-334 – Calhoun Co., additional court costs
HB604, Act No. 2011-598 – Macon Co., county commission authorized to set licenses fees
HB605, Act No. 2011-599 – Macon Co., duties as to roads
HB622, Act No. 2011-601 – Etowah Co., sales and use tax distribution
HB624, Act No. 2011-658 – Madison Co., licensure of alcoholic beverages
HB627, Act No. 2011-600 – Cullman Co., transfer of property to board of education
HB630, Act No. 2011-605 – Washington Co., road supervision
HB661, Act No. 2011-607 – Tuscaloosa Co., circuit and district court costs
HB662, Act No. 2011-608 – Madison Co., municipal court fee
HB668, Act No. 2011-609 – Cleburne Co., court costs in traffic cases authorized
HB670, Act No. 2011-610 – Colbert Co., pistol permit fees
HB676, Act No. 2011-611 – Jackson Co., TVA in-lieu-of-taxes distribution
SB208, Act No. 2011-265 – Perry Co., lodging tax levied
SB221, Act No. 2011-150 – Coosa Co., regulation of water systems by municipalities
SB293, Act No. 2011-203 – Lee Co., sheriff authorized to sell unclaimed firearms
SB294, Act No. 2011-204 – Lee Co., constable abolished
SB315, Act No. 2011-699 – Class 2 municipalities, liquor license appeals to circuit court
SB339, Act No. 2011-217 – Talladega Co., solicitor’s fee authorized equal to Fair Trial Tax Fund
SB342, Act No. 2011-336 – Class 1 municipalities, interest rate on waterworks board deposits
SB356, Act No. 2011-337 – Montgomery, speed camera enforcement
SB377, Act No. 2011-313 – Baldwin Co., court costs for law library
SB378, Act No. 2011-523 – Lee Co., sales and use tax outside corporate limits
SB405, Act No. 2011-292 – Athens, sell of keg been or malt beverages on council approval
SB411, Act No. 2011-524 – Opelika, red light cameras authorized
SB479, Act No. 2011-649 – Lauderdale Co., solicitor’s fee continued
SB480, Act No. 2011-650 – Lauderdale Co., court costs for drug task force
SB481, Act No. 2011-651 – Lauderdale Co., pretrial diversion program established
SB490, Act No. 2011-653 – Marion Co., court costs in domestic violence cases
SB511, Act No. 2011-711 – Jefferson Co., solicitor’s fee authorized equal to Fair Trial Tax Fund

**Annexation Acts**

HB280, Act No. 2011-241 – Foley
HB589, Act No. 2011-333 – Hollywood
HB629, Act No. 2011-604 – Killen
SB322, Act No. 2011-266 – Piedmont
SB421, Act No. 2011-314 – Thomasville
SB482, Act No. 2011-652 – Gulf Shores