

LOCAL LEGISLATION

Because Alabama's 1901 Constitution prohibits "home rule," the Alabama Legislature spends an estimated 40% of its time on legislative acts or constitutional amendments authorizing acts that local governments perform in other states. Already overwhelmed by state bills they have inadequate time to study, legislators must decide with no knowledge of local conditions whether to permit a county to sell bonds for industrial development, provide small raises to local officials, or increase their taxes for better schools or public transportation. This situation arises partly because Alabama's constitution and laws place it under Judge Dillon's rule. Unlike the federal/state provision in the U.S. Constitution that grants all powers not assigned to federal government to the states or people, Dillon's Rule states that all powers not specifically granted to local governments are retained by the legislature. (Katz, pp. 9-10)

Local legislation generally applies to particular places, like one county or city, as distinguished from general law that applies to the state as a whole. Because the Alabama Constitution specifically prohibits 31 kinds of local laws (Section 104) many local bills must be passed as constitutional amendments. In the past when the problems were fewer, "legislative courtesy" was practiced. The legislature passed without question whatever local bills Senators and Representative introduced, so long as the proper local advertising was certified. Senate districts at that time did not cross county lines and several House districts were nested within one Senate district so that the local delegation covered one locality. Conflicts might arise between what county or city governments wanted and what legislators were willing to support, but the local delegations were relatively cohesive and accessible to local citizens. Redistricting after the 1990 and 2000 censuses greatly complicated local delegations and their cohesiveness. Even a medium-sized county could find itself with three Senators and six Representatives, with only three of the nine living in the county. Senatorial districts may include parts of six or seven counties. Consultation about local bills with county and city governments and with their constituents became more difficult.

As the burden of local legislation increased, the legislature adopted various devices to manage it. It declared local bills "a general bill of local application." When those devices were declared unconstitutional, amendments passed in 1978 and 1982 redefined a general law as one that applies either to the whole state or to one or more municipalities in a class. Eight classes were established on the basis of the 1970 census (Ala. Code 11-40-12); these categories have never been revised. The change greatly reduced the number of constitutional amendments that had to be approved by all state voters. (*Legislative Process*, pages 50-54) Ballots now contain both statewide and local amendments, and the will of a locality cannot be thwarted by the statewide vote. But problems remain.

The degree of successful consultation between local governments and the legislative delegations varies widely. Local problems must wait for legislative sessions and are subject to the uncertainties of the legislative process. A potential threat to "tens of thousands" of local laws arose over legislators' habit of not voting on the measures in

Local Law

Affects only one county or city that is specifically named.

General Law

Affects the state as a whole or one or more municipalities named in a class or grouping defined by specific criteria (usually population size).

order to leave the decision to the local delegation. One judge ruled that the constitutional requirement, “a majority of each house,” means that a quorum must be present and a majority of the quorum must vote for the bill, instead of just a majority of members there to vote, no matter how few the total in attendance. If this ruling had been upheld, almost every local law would have been subject to court challenge. (Editorial and related news stories *Birmingham News*, March 25, 2005).

House Procedures

A local bill in the House is assigned to one of eight committees. Seven committees each include all the representatives from one county: Jefferson, Mobile, Madison, Montgomery, Tuscaloosa, Shelby, or Lee. Bills for smaller delegations go to the Committee on Local Legislation, which contains one member from each Congressional District. A simple majority in any of these committees can send a bill to the floor. Several House Rules can expedite local legislation by allowing it to be considered on the day assigned, unlike other bills, and by allowing a local bill to pass out without a meeting with the unanimous consent of all members whose districts are affected. (Rules 67 and 77)

Senate Procedures

Although the procedures in the Senate are more informal for small delegations, a major difference is that a county’s senators must be unanimous or the bill dies. There are only three committees for local legislation and their jurisdictions are defined by county population size. Local Legislation #2 (500,000 population and over) covers only Jefferson County and its local governments. Local Legislation #3 (300,000-500,000 population) currently covers only Mobile County. All other local bills go to Local Legislation #1. Even if local senators agree on a bill, Local Legislation Committee #1, chaired at present by the President Pro Tempore, can reject it, although in such a case it may be reconsidered.

When local bills come to the floor, a challenge to a local constitutional amendment triggers the necessity for a statewide rather than a local vote. Senators seeking leverage with each other for some purpose have invoked this provision.

Local bills on certain topics must receive more than local delegation approval. Both houses require that any gambling-related bill favorably reported from a Local Legislation committee must then be referred to the Committee on Tourist and Marketing for further action. (Senate Rule 50A/House Rule 39) Senate Rule 50B provides that an environmental bill, with fees and taxes, that affects more than one political subdivision, first be assigned to a local legislation committee. If reported favorably, it then must be referred to the appropriate standing committee and be treated as a general bill (*Legislative Process*, pp. 50-54; Senate and House Rules).

The Possibility of Reform

Although almost every Senator and Representative interviewed by the study committee was asked for recommendations on how to change the way local legislation is handled in their bodies, no one could suggest improvements. Many judged the public notices required before any local bill can be introduced to be adequate. (The substance of proposed local legislation must be published in local newspapers once a week for four consecutive weeks and be posted for two consecutive weeks at five different places in the county.)

Home Rule was universally acknowledged as the only alternative to the present system. Some legislators strongly supported Home Rule. In fact, the problems the 1901 Constitution creates for the legislature were cited by many in their overview of the general strengths and weakness of the institution. Others legislators offered reasons for opposing it, chiefly a distrust of current county governments by the people and themselves.

Because LWVAL Constitutional Reform positions (available at www.lwval.org) contain strong support for Home Rule, no consensus question on this topic is deemed necessary for this study.