

The Alabama Municipal JOURNAL

August 2008

Volume 66, Number 2



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The Alabama Municipal JOURNAL

Official Publication, Alabama League of Municipalities

August 2008 • Volume 66, Number 2

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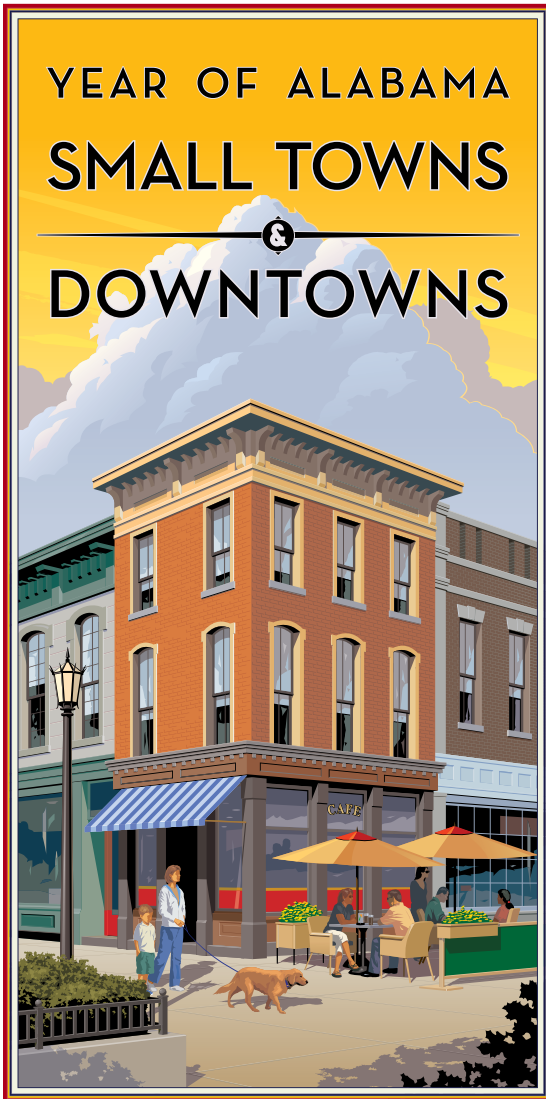
For a complete list of the ALM staff, visit www.alalm.org.

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A Message from the Editor

Improbable as it may seem, municipal elections haven't completely consumed the League staff, although they're certainly a priority – just ask any of our wild-eyed attorneys! While the legal staff has been inundated with elections questions throughout the summer (in addition to updating articles for the *Selected Readings* and *Mayor Council Handbook* which will be distributed in November after officials take office), the League is also gearing up for annual Policy Committee meetings. The TPSC Committee meets August 6; EENR is scheduled for August 12; FAIR on August 13; CED on September 9; and the HD Committee met last month on July 25. Each meeting begins at 9 a.m. at League Headquarters in Montgomery. For a complete list of committee memberships, see page 20.

While I realize elections are your priority this month, I want to encourage you to mark **DECEMBER 1, 2008** on your calendars so you will not miss the deadline for two important municipal programs:

- **2010: The Year of Alabama Small Towns and Downtowns.** This unique opportunity is part of the Alabama Tourism Department's "year of" tourism campaign in which municipalities are encouraged to host a "homecoming" celebration in 2010.

- **2009 Municipal Quality of Life Awards** (previously known as the League's Municipal Achievement Awards)

Every municipality participating in the Year of Small Towns and Downtowns campaign, which is cosponsored by the League, will receive a free historic marker provided through Alabama Tourism. Each municipality is responsible for the text of 150 to 175 words per side. To participate, you must approve a resolution **before** December 1, 2008 declaring that your

municipality (or chamber) will host a homecoming celebration on a particular date in 2010 inviting previous residents to return "home". This celebration can easily be done in conjunction with another annual festival or event your municipality may already have planned. For more details, see page 11 or download the brochure detailing this program from our website: www.alalm.org. **Please be vigilant in responding to this unique opportunity. This is a one-time program. If you miss the deadline, you will not get another chance to be a part of Alabama Tourism's "year of" campaign.**

Next month we will mail information to mayors and clerks regarding our 2009 Municipal Quality of Life Awards program. One winning entry and one honorable mention will be chosen from each of three population categories: 1 – 5,000; 5,001 – 12,000; and 12,001 and over. The three winning entries will enjoy statewide recognition at the League's 2009 Annual Convention in Montgomery; receive a special plaque; be featured in a video shown at the Convention; be spotlighted on the League's website; and featured in the *Alabama Municipal Journal*. The three Honorable Mentions will receive a certificate as well as recognition on the League's website and in the *Alabama Municipal Journal*. I encourage you to read through the materials as soon as they arrive in order to prepare your entry by the December 1, 2008 deadline. Information will also be posted on our website in early September.

Registration materials were mailed last month for the joint Fall Municipal Law Conference of the Alabama Association of Municipal Attorneys (AAMA) and the Alabama Municipal Judges Association (AMJA) which will be held September 28-30 at the Bay Point Marriott in Panama City, Florida. Municipal attorneys, judges and prosecutors are encouraged to attend. For more information, see page 26 of this publication or contact **Sharon Carr** at **334-262-2566**.

I'll close by encouraging you to enter the League's second annual "Municipal Photography Contest" (see page 34). The winning photo will be featured on the cover of the League's *2009 Annual Directory and Vendor Listings* which is distributed each year in January. Other entries may be used in the *Alabama Municipal Journal*, as well as other League publications, throughout the year. Pictures of municipal buildings, parks, streets downtowns, city festivals ... all are acceptable. Because the winning photo will appear on the cover of the *Directory*, the picture must be **vertical**, color and taken at a high resolution so the print quality is not compromised. Complete information is posted on our website at www.alalm.org.

Carrie

The President's Report



Melvin Duran
Mayor of Priceville

2008 CMO Graduation Ceremony Held July 22nd

On July 22, the League held commencement ceremonies in Montgomery for its Elected Officials Training Program. These graduation exercises marked the 13th group of officials to receive their basic CMO (Certified Municipal Official) certification and the 10th group to receive their advanced CMO certification.

The Elected Officials Training Program consists of a series of one-day continuing education programs designed for elected municipal officials – mayors and councilmembers – who voluntarily wish to receive formal training in municipal government. Officials who complete 40 credit hours of training are awarded the professional designation of Certified Municipal Official. Training sessions are conducted twice each year at four regional sites throughout the state. Additional hours may be earned by attending designated sessions during the annual League Convention and other approved events sponsored by the League and the National League of Cities. A limited amount of credit may be obtained by attending other approved courses. The training program can be completed in as few as two calendar years.

The Elected Officials Training Program is an ongoing project of the League to fulfill the education mandate contained in its constitution. The first session of the Elected Officials Training Program was held at the Adams Mark Hotel in Mobile on September 22, 1994. The same program was offered in Birmingham, Montgomery and Huntsville. Nearly 200 officials enrolled in the program during the first sessions. Currently more than 2,000 municipal officials are enrolled and have attended one or more courses.

Session topics include council meeting procedure, rules of parliamentary procedure, the Open Meetings Act, public records, ordinance drafting, powers of municipalities, ethics laws, conflicts of interests, duties of mayors and councilmembers, tort liability, annexation, zoning, subdivision regulation,

municipal revenues and expenditures, the competitive bid law, personnel issues, insurance issues and regulatory powers of municipalities.

In 1998, the League added an Advanced CMO Program for those officials who had received the CMO designation and desired additional training. During its January 2000 meeting, the League's Executive Committee approved the addition of a continuing education requirement to the Elected Officials Training Program. The committee members felt the new requirement would strengthen the CMO Program. As of Jan. 1, 2000, each Advanced CMO Graduate is required to earn ten (10) credit hours of approved training within two (2) calendar years to maintain their Advanced CMO active status. Any CMO Advanced Graduate who does not earn at least ten (10) approved credit hours of training within two (2) calendar years will have their Advanced CMO status designated as "inactive" until such time as the required ten (10) hours of approved credit is earned. The continuing education credits started at the 2000 Convention in Birmingham.

This year, a total of 48 municipal officials successfully completed the requirements to receive their CMO certification. Forty-nine officials received their Advanced CMO certification. As he has done at all the previous CMO graduation ceremonies, Representative Bill Dukes of Decatur addressed the 2008 graduates of the Elected Officials Training Program. He has been a key player in municipal government for 30 years – 18 of them as mayor of Decatur. A past president of the League, Rep. Dukes was elected to the Alabama Legislature in 1994 and currently serves as chair of the House County and Municipal Government Committee. Following his comments, Rep. Dukes handed out plaques to those graduates who were able to attend the commencement ceremonies. The 2008 graduating class of Certified Municipal Officials and Advanced CMOs is listed on page 32. ■

\$10 Million Dollars



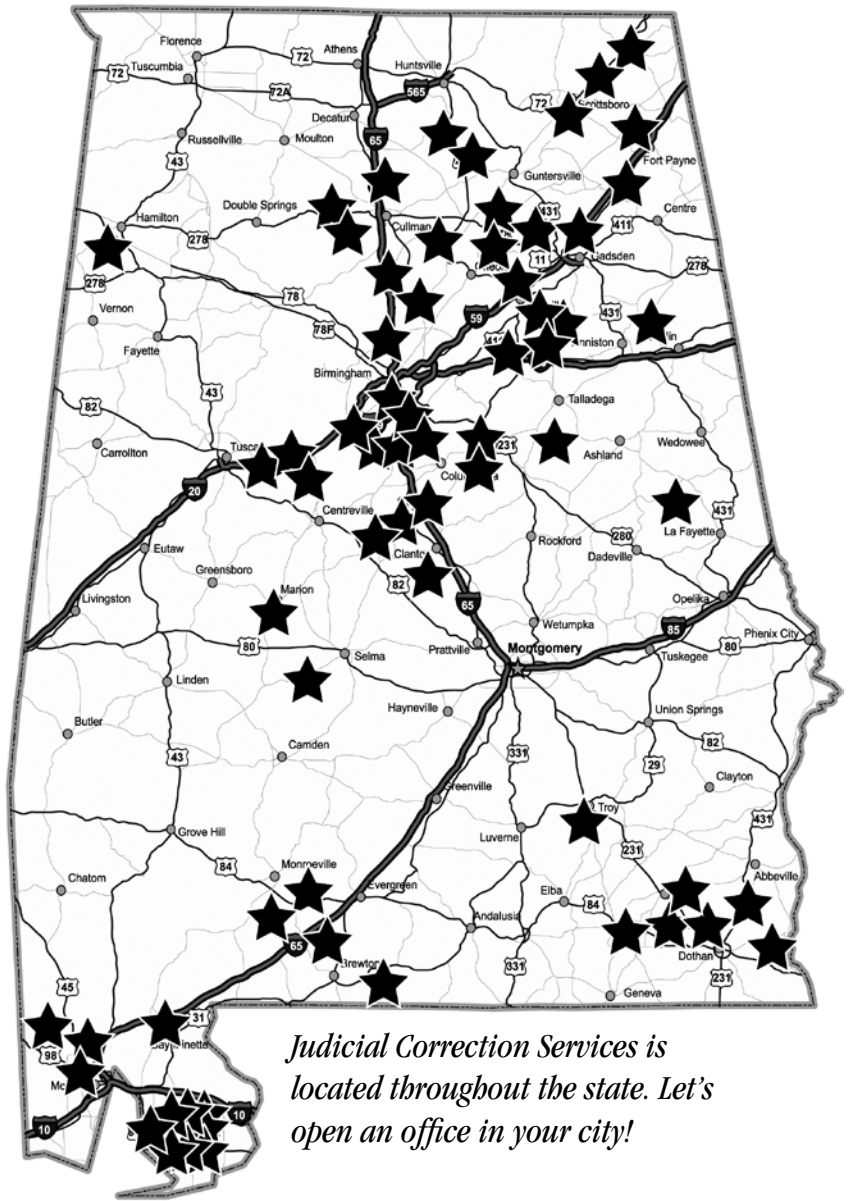
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Perry C. Roquemore, Jr.
Executive Director

Organizational Meeting of the Executive Committee

The Organizational Meeting of the Executive Committee of the Alabama League of Municipalities was held on Thursday, July 17, 2008, at League Headquarters in Montgomery. The meeting was chaired by the League President, Mayor Melvin Duran of Priceville. Following the invocation by Mayor Bobby Payne of Tallassee, Mayor Duran thanked everyone for the support in his election as League President. He also wished all candidates good luck in their upcoming races. Mayor Roy Dobbs of Berry, League Vice President, also thanked everyone for their support and urged them to call upon him whenever his assistance was needed.

Councilmember Cynthia McCollum of Madison, President of the National League of Cities, made a report on the activities of NLC. She reported that the NLC Board meeting was held in mid July in Huntsville and was well attended. She stated that as NLC President she had asked both presidential campaigns to commit to sending the new President to the Congress of Cities in November in Orlando, Florida. She encouraged all delegates to attend. She also informed members of a new NLC program with CVS Drugs that will begin soon. The program will allow cities to provide drug cards free-of-charge to underinsured or uninsured citizens to enable them to receive discounts on drug purchases at most drug stores. Further details will be coming in the near future.

I was then asked to present the Director's report. Members were informed of the recent death of Patsy Sumrall, former board member and Mayor of Thomaston. New board members Mayor Charles Murphy of Robertsedale, Mayor Phil Segraves of Guin, Councilmember Isabell Boyd of Brundidge, Councilmember Russell Chandler of Tallassee and Councilmember Bobby Phillips of Calera were introduced.

It was reported that dues notices for our September 1, 2008 - August 31, 2009 League Fiscal Year had been mailed. As of the date of the meeting, the League had 443 member cities and towns out of the 460 municipalities in the state. I encouraged members to invite the 17 non-member municipalities to join the League.

It was reported that the NLC Congressional-City Conference in Washington, DC, was very successful. Approximately 200 officials and guests from Alabama attended the meeting. Next

year's meeting will be held at the Marriott Wardman Park Hotel in Washington, DC, on March 14-18, 2009.

The SMC Membership Meeting was held in Wilmington, NC, in late April. All members of the League's Executive Committee were invited to attend. The meeting in Wilmington was attended by Mayor Bobby Payne of Tallassee, Mayor Ken Williams of Saraland, Councilmember Sadie Britt and Mayor Lew Watson of Lincoln, Mayor Sonny Penhale of Helena, Ken Smith and the League Director. Mayor Payne is a past chair of SMC and currently sits on the board of directors with the League Director. During the meeting, there were good discussions on the drought, environmental sustainability, property tax reform and federal legislation such as collective bargaining.

The 2008 League Convention was held in Birmingham on May 17-20, 2008. The evaluations from the meeting were very good. Most delegates seem to enjoy the new format. I discussed the hotel attrition policy and the fact that last minute room cancellations caused the League to pay a sizeable penalty. Following a discussion on how to prevent a similar problem in the future, Mayor Leon Smith of Oxford moved that the League ask the host hotels to charge a non-refundable deposit for rooms not cancelled by the deadline. Councilmember MacArthur Bell seconded the motion. The motion passed unanimously.

We wished all members of the committee good luck in the upcoming municipal election on August 26. A number of municipalities had no contested races and will not be required to hold elections this year. The runoff will be held on October 7 and newly elected officials will assume office on November 3. The League will conduct training sessions in four locations for newly elected officials and veteran officials in late October and early November.

Our 2008 League Policy Committee meetings have been scheduled and members appointed to each committee. They will be held as follows: July 25 (HD); August 6 (TPSC); August 12 (EENR); August 13 (FAIR); and September 9 (CED). These committees will revise our League Policies and Goals statement.

continued on page 30

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The Legal Viewpoint

By Ken Smith
Deputy Director/General Counsel



Competitive Bid Law

The competitive bid law is codified at Sections 41-16-50 through 41-16-63, Code of Alabama 1975. This article summarizes the major portions of the bid law and incorporates the interpretations and constructions given the law by the courts and the Attorney General. In addition, Chapter 1, Title 39, Code of Alabama 1975, governing contracts related to public buildings, streets or public works, is discussed. For detailed information on the public works bid process, see the article titled Public Works Bidding in this publication.

Contracts Covered By the Bid Law and Who Must Comply

The law provides that all expenditures of funds of whatever nature for labor services, work, or for the purchase or lease of materials, equipment, supplies or other personal property, involving \$15,500 or more, or for the lease of materials, equipment, supplies or other personal property where the lessee is or becomes legally and contractually bound under the terms of the lease, to pay a total amount of \$15,500 or more, made by or on behalf of ... city boards of education, the governing bodies of municipalities of the state and the governing boards of instrumentalities of municipalities ... including waterworks boards, sewer boards, gas boards and other like utility boards and commissions, except as hereinafter provided, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder.

Selected Cases and Attorney General Opinions on Contracts Covered and Who Must Comply:

- The purchase of used equipment is subject to the competitive bid law. AGO 1981-481 (to Hon. Ted Boyette, July 30, 1981), and AGO 1989-185.
- Lease-purchase arrangements are also subject to the bid law. AGO 1982-051 (to Hon. W. W. Burns, October 29, 1981), and AGO 1982-474 (to Hon. William C. Gullahorn, July 26, 1982). A good rule to follow in determining whether or not lease arrangements must be bid is to bid any lease arrangement the terms of which bind the governmental entity to spend \$7,500 (now \$15,000) or more.

- The purchase of gasoline is subject to the bid law. AGO 1982-526 (to Mr. G. R. Craft, August 30, 1982).

- Municipal and county airport authorities created under the provisions of Sections 4-3-1 through 4-3-24, Code of Alabama 1975, are subject to the provisions of the competitive bid law. AGO to Hon. Edward Jackson, May 22, 1975.

- Bids are required on a contract for janitorial services. AGO 1980-392 (to Hon. Brady Baccus, June 11, 1980).

- A local governing body must comply with the bid law in letting contracts for the installation of data processing programs. AGO to Hon. Charles Boswell, January 22, 1976.

- Although a city's mechanics are trained only to work on a particular brand of vehicle, such training and past purchases from that vendor cannot justify a failure to take bids on future purchases. AGO to Hon. Fred Collins, March 14, 1978.

- Contracts for the purchase of voting machines are subject to the competitive bid law. Counties having only one type of machine may restrict purchase to the type possessed, but counties having none or more than one type of voting machine must accept bids from all voting machine manufacturers bidding. 130 Quarterly Report of the Attorney General 57.

- A contract for services to publish a list of qualified voters as required by law **must** be let on a competitive bid basis. 138 Quarterly Report of the Attorney General 36.

- Water authorities created pursuant to Section 11-81-1, et seq., Code of Alabama 1975, are subject to the bid law. AGO 1991-159. Hospital boards organized under Section 22-21-1, Code of Alabama 1975, are also subject to the bid law (AGO 1991-344) as are E-911 Boards (AGO 1991-171).

- A municipality may solicit bids for the purchase of an indefinite number of an item based on unit prices, provided the contract will be limited to a definite period of time. AGO 1993-123.

- The bid law does not apply to purchases from other governmental agencies. AGO 1991-131 and AGO 1994-183.

- The three year limit found in Section 41-16-57(e) of the Code of Alabama on public contracts for contractual services applies only to contracts that are competitively bid. AGO 2001-048.

continued on page 13

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2010: Year of Alabama Small Towns and Downtowns

DEADLINE to participate: December 1, 2008

Governor Bob Riley invites you to celebrate your town in 2010 by participating in the statewide promotion of The Year of Alabama Small Towns & Downtowns.

- Invite former residents back for a special Homecoming Weekend.
- Unveil a locally written historic marker on the history of the town.
- Lead a walking tour of the historic area.
- Dedicate a completed civic project, such as a new park or restored landmark building or other needed public project.

The Alabama Tourism Department will publish an attractive book that features photographs and a brief history of each participating municipality. The books will be sold in stores all over Alabama. Each participating municipality will also receive a free, custom historic marker. **Submit your 2010 celebration date by the deadline of December 1, 2008 to be certified as an official "Year of Small Towns and Downtowns" participant.**

The Homecoming Weekend:

If you have a popular annual event, declare that date in 2010 to be your community's Homecoming Weekend and make it even bigger. If your city or town doesn't have an annual event, you need one and this is the perfect way to start. When your committee does the event once, you'll discover how easy it is to repeat the following year.

Who is sponsoring The Year of Small Towns and Downtowns? The Office of the Governor, The Alabama League of Municipalities, The Alabama State Chambers of Commerce and the Alabama Tourism Department.

What will it cost us to participate? Nothing. There is no administrative fee. The primary costs would be for a civic project of your choosing.

Do we absolutely have to do "a civic project"? No.

Does this require a local committee or can this project be done through the mayor's office? That decision is up to the town government.

What action is expected of the council or the chamber? Approve a resolution **before Dec. 1, 2008**, declaring that the municipality (or chamber) will host a homecoming celebration on a particular date in 2010 inviting previous residents to return home.

Who is responsible for the free historic marker? Alabama Tourism will order it and pay for it. Your committee will write the text. Approximately 150-175 words per side is suggested. The second side can be a continuation of the first side, or it can be a completely different subject. **The text for the marker is due on or before December 1, 2008.** The completed marker will be shipped from the factory to the mayor. When you send the text, include a note with the DATE in 2010 of your Homecoming Weekend in which you intend to dedicate the marker. This way we will have enough time to have it made.

Why does this have to be done by December 1, so far in advance? The preparation of the book and manufacture of a large number of historic markers will take a full year.

What is the deadline for sending the words for the marker to the Alabama Tourism Department? **December 1, 2008**

Who do we contact? Where do we send our text to for the historic marker? Email the name of your committee chair, the contact's personal email address and send questions to Brian Jones at the Alabama Tourism Department in Montgomery. Contact: Brian.Jones@tourism.alabama.gov or call 1-334-242-4169. As we receive questions, we will send the answers to EVERYBODY on our list to share the answers.

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Competitive Bid Law continued from page 9

- If payment for emergency medical services by a nonprofit ambulance service exceeds \$7,500 (now \$15,000) annually, the Competitive Bid Law applies. AGO 2002-086.

- A mental health board incorporated pursuant to Section 22-51-2 of the Code of Alabama 1975, is a public corporation subject to the Competitive Bid Law and the Public Works Law. AGO 2003-017.

- An E-911 board must comply with the Competitive Bid Law when determining which ambulance providers receive dispatch calls. Such boards should work with municipalities and ambulance service providers to ensure the most efficient service to persons in their districts. AGO 2004-009.

- Mental Health Authorities created pursuant to Section 22-51-1 et seq. of the Code of Alabama 1975, are not exempt from the Competitive Bid Law. AGO 2006-004.

- Section 11-89A-5 of the Code of Alabama allows a county solid waste disposal authority to amend its certificate of incorporation to become a municipal solid waste disposal authority that would qualify for the exemption from the Competitive Bid Law found in section 11-89A-18. AGO 2007-059.

Supplemental Contracts or Change Orders

Supplemental contracts or change orders for new and additional work are subject to competitive bid in the same manner as the original contract. Exceptions to this general rule are (a) minor changes for a total monetary amount less than that required for competitive bidding; (b) changes for matters relatively minor and incidental to the original contract necessitated by unforeseeable circumstances arising during the course of the work; (c) emergencies arising during the course of work on the contract; and (d) changes of alternates provided for in the original bidding and original contract. 142 Quarterly Report of the Attorney General 47.

For more information on change orders, see the article entitled "Utilizing and Processing Contract Change Orders" in this publication.

Exemptions From the Competitive Bid Law

Competitive bids are not required for

- Purchases of utility services where no competition exists or rates are fixed by law.

- Purchases of insurance.

- Purchases of election supplies. However, the purchase or lease of voting machines is not exempt from the bid law. AGO 1994-187.

- Contracts for services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part. A contract between a public agency and a professional services company is exempt from the competitive bid law. If the professional

services are merely incidental to the purchase of equipment, the purchase must be bid. AGO 2000-152. The professional services exemption in the Competitive Bid Law does not apply to consultants providing administrative, secretarial, accounting and clerical services. AGO 2002-078.

- Contracts of employment in the regular civil service.

- Purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for the Deaf and Blind.

- Purchase of maps or photographs from a federal agency.

- Purchases of manuscripts, maps, books, pamphlets and periodicals.

- The selection of paying agents and trustees for any security issued by a public body.

- Professional service contracts for the codification and publication of the laws and ordinances of a county or municipality.

- Contractual services and purchases of commodities for which there is only one vendor or supplier.

- Contractual services or purchases of personal property, which by their very nature are impossible to award by competitive bidding.

- Purchases of products where the price of such products is already regulated and established by state law.

- Purchases for public hospitals and nursing homes operated by the governing boards of municipal instrumentalities.

- Contracts for furnishing of fiscal or financial advice or services.

- Existing contracts up for renewal for sanitation or solid waste collection, recycling and disposal between municipalities and/or counties and those providing the service.

- Subject to the limitations in this subdivision, purchases of goods made as a part of the purchasing cooperative sponsored by the National Association of Counties, or its successor organization. This subdivision shall not apply to goods for which a service or service contract, whether subject to competitive bidding under this article or not, is necessary to utilize the goods. Such purchases may only be made if all of the following occur:

- a. The goods being purchased are available as a result of a competitive bid process approved by the Alabama Department of Examiners of Public Accounts for each bid.

- b. The goods are either not at the time available to counties on the state purchasing program or are available at a price equal to or less than that on the state purchasing program.

- c. The purchase is made through a participating Alabama vendor holding an Alabama business license if such a vendor exists.

- There is no authority for entities covered by the Competitive Bid Law to make purchases through a purchasing cooperative other than the one sponsored by NACo as listed



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Crestview, FL 32539
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Marianna
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Marianna, FL 32446
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Pensacola, FL 32534
(850) 471-6700

Tuscaloosa
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Tuscaloosa, AL 35401
(205) 247-2800

in §41-16-51(a)(16) of the Code of Alabama 1975. AGO 2007-011

- In 2004, the Legislature passed what is now Section 41-16-51.1. This law allows a county or an incorporated municipality to contract, without soliciting or obtaining competitive bids, for certain services with any vendor or provider at a price which does not exceed the price which the state has established through the competitive bid process for the same certain services under the same terms and conditions and provided it pertains to a current and active bid on a non-statewide agency contract

- Transfer of funds from the city general fund to the city municipal court fund for an automobile does not require competitive bidding. AGO 2006-123

Selected Cases and Attorney General Opinions on Exemptions to the Bid Law:

The Attorney General has issued the following rulings related to bid law exemptions:

- The purchase of insurance is exempt from the bid law. AGO to Hon. Thomas R. Bell, February 7, 1975.

- Contracts for the purchase of personal property for a community mental health center are exempt from the bid law. 130 Quarterly Report of the Attorney General 17.

- Contracts for the design, operation and supervision of a sanitary landfill are exempt from the bid law. 136 Quarterly Report of the Attorney General 47.

- Contracts with fiscal agents who represent investment banks are exempt from the bid law. 128 Quarterly Report of the Attorney General 29.

- Investment of surplus funds in certificates of deposit are exempt from the bid law. AGO to Hon. John M. Crane, May 11, 1970.

- Contractual services rendered by one state political subdivision to another or by the state to a political subdivision are exempt from the bid law. AGO's to Hon. Maury Friedlander, June 4, 1969; Hon. Lloyd Tippett, March 15, 1968; Hon. A. A. Chandler, May 28, 1969; Hon. Leonard E. Clements, Jr., April 6, 1973; 1982-174 (to Hon. William C. Gullahorn, Jr., February 5, 1982).

- Purchases of compatible computer equipment are exempt from the bid law. AGO to Hon. Gary L. Rigney, February 12, 1976; AGO 1982-143 (to Hon. Steve Means, January 19, 1982).

- A contract with an engineering consultant firm for aerial maps is exempt from the bid law. AGO to Hon. Cliff Evans, September 26, 1973.

- A contract with a golf professional for a municipal golf course is exempt from the bid law. AGO to Ms. Mary Nell Baxter, May 6, 1974.

- Contracts for antique furniture restoration are exempt from the bid law. AGO to Mr. Warner Floyd, August 21, 1975.

- Contracts for the rebuilding and restoring of a musical

instrument are exempt from the bid law. AGO to Dr. Kermit A. Johnson, November 19, 1975.

- Construction of buildings by a medical clinic board is not subject to the bid law. AGO to Mr. John E. Adams, November 21, 1979.

- If the purchase of equipment is incidental to the provision of professional services which are exempt from the bid law, the equipment purchase is exempt as well. However, if the services which will be rendered are incidental to the purchase of equipment, the bid law applies. AGO 1996-046.

- Contracts for fiscal advice, including advice and assistance in the collection of local taxes, are exempt from the bid law. AGO 1994-076.

- A criminal investigator is a professional for purposes of the competitive bid law; therefore, the procurement of the services of an investigator need not be competitively bid. AGO 2002-164.

- When it is known or contemplated that like item purchases, including automotive parts not exempted by Section 4-16-52(a) of the Code of Alabama 1975, involving \$7,500 (now \$15,000) or more will be made during a fiscal year, these items must be procured through competitive bid. The responsibility for determining which items are like or similar in nature rests with the municipality. AGO 2003-098.

- Purchases of custom software as well as purchases of computer and word processing hardware when the hardware is the only type compatible with hardware already owned by the entity taking bids. Custom software is software that requires substantial creative work by a professional/vendor to comply with the unique specifications required by the entity making the purchase. AGO 1994-023.

- Purchases made by individual city or county schools from moneys other than those raised by taxation or received through appropriations from state or county sources.

- The purchase, lease or other acquisition of machinery, equipment, supplies and other personal property or services by a medical clinic board organized under the provisions of Sections 11-58-1 through 11-58-14, Code of Alabama 1975.

- The purchase, lease, sale, construction, installation, acquisition, improvement, enlargement or expansion of any building or structure or other facility designed or intended for lease or sale by a medical clinic board organized under Sections 11-58-1 through 11-58-14, Code of Alabama 1975.

- Contracts relating to industrial development.

- The purchase of equipment, supplies or materials needed, used and consumed in the normal and routine operation of any waterworks system, sanitary sewer system, gas system or electric system or any two or more thereof, that are owned by municipalities, counties or public corporations, board of authorities that are agencies, departments or instrumentalities of municipalities or counties and no part of the operating expenses of which system or systems have, during the then current fiscal year, been paid from revenues derived from taxes or from appropriations of the state, a county or a municipality.

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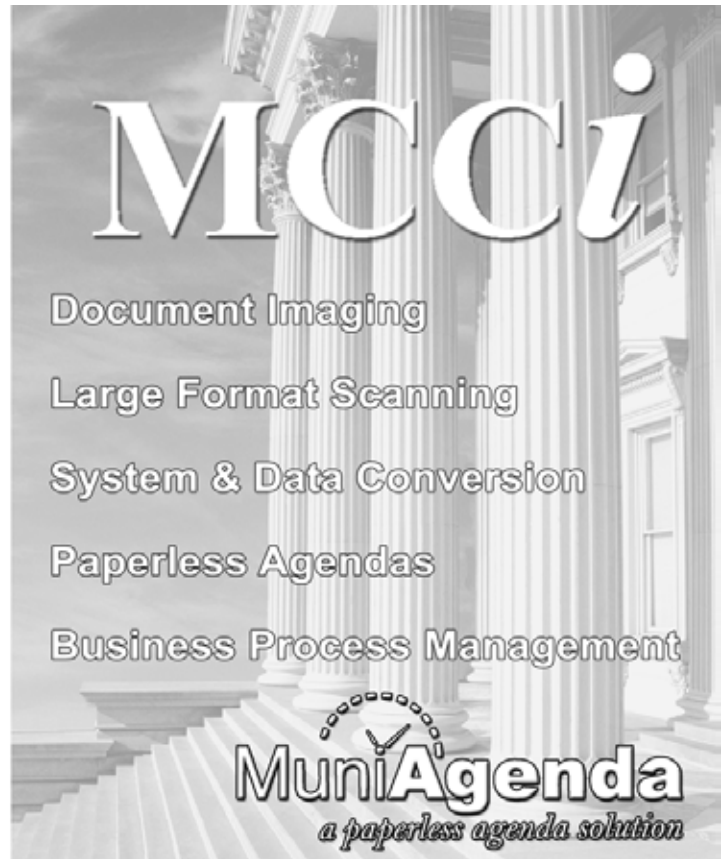


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The requirements of the Competitive Bid Law do not apply to purchases of equipment, supplies or materials needed, used and consumed in the normal and routine operation of the county water and sewer authority. However, if the authority's purchase of equipment, supplies or materials exceeds \$50,000 and is included in a contract for the construction, renovation, repair or maintenance of the sewer and waterworks, it is subject to the provisions of the Public Works Law. AGO 2001-139 and AGO 2002-152.

- Purchases made by local housing authorities from moneys other than those raised by state, county or municipal taxation or received through appropriations from state, county or municipal resources.

- Alternative bidding does not violate the bid law. *Ericsson GE Mobile Communications, Inc. v. Motorola Communications, Inc.*, 657 So.2d 857 (Ala. 1995).

- A school board may enter into a joint commercial venture with a company that will provide and maintain a profit-making website with profits to be realized through the sale of advertisement space on the website whereby students would offer the ads for purchase to local businesses, create the ads and place them on the website and as a result the students would gain experience with computers and web design and a large portion of the revenue would be returned to the school; provided, however, that if the proposed project amounts to an exclusive franchise, it must be competitively bid. AGO 2005-17.

- A contract proposed by a city for engineering and professional management services is exempt from the competitive bid law if the non-professional services included in the contract are incidental to and integrated with the professional services. AGO 2005-192.

- The purchase of a voting system and related professional services does not have to be competitively bid if the professional services provided by the vendor are inextricably intertwined with the particular voting system purchased. AGO 2005-197.

The Lowest Bidder – 3 Percent Preference Allowed for a Resident Bidder

If a contract is for the purchase of an item of personal property and the municipality or a board of the municipality receives a bid from a person, firm or corporation deemed to be a responsible bidder and having a place of business in the county or the Core Based Statistical Area (CBSA) and the bid is no more than three percent greater than the bid of the lowest responsible bidder, the municipality or municipal board may award the contract to such resident responsible bidder. Section 41-16-50, Code of Alabama 1975. **This section applies only to the purchase or lease of personal property it does not apply to services.** A contract for labor, services or work must be awarded to the lowest competitive bidder even though a responsible bidder bids a price that is less than three percent of the price bid by the lowest competitive bidder. 130 Quarterly Report of the Attorney General 25.

In *Tin Man Roofing Co. v. Birmingham Board of Education*, 536 So.2d 1383 (1988), the Alabama Supreme Court held that a re-roofing contract was not a contract for personal property and as such the three percent preference for local bidders did not apply.

Other Preference Statutes

Section 39-3-5, Code of Alabama 1975, provides that in the letting of public contracts in which any state, county, or municipal funds are utilized, except those contracts funded in whole or in part with funds received from a federal agency, preference shall be given to resident contractors, and a nonresident bidder domiciled in a state having laws granting preference to local contractors shall be awarded Alabama public contracts only on the same basis as the nonresident bidder's state awards contracts to Alabama contractors bidding under similar circumstances; and resident contractors in Alabama, as defined in Section 39-2-12, be they corporate, individuals, or partnerships, are to be granted preference over nonresidents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state of domicile of the nonresident. A summary of this law shall be made a part of the advertised specifications of all projects affected by this law.

Section 39-3-4, Code of Alabama 1975, as amended, provides that any contractor for a state, county or municipal construction project, financed entirely by the state or any political subdivision thereof, is required to use steel produced within the United States when specifications in the construction contract require the use of steel. The construction contract with any contractor who violates the domestic steel requirements of this law shall be automatically revoked and such contractor shall not be entitled to any set off or recoupment for labor or materials used up to the time of such revocation.

Section 41-16-57, Code of Alabama 1975, provides that in the purchase of or contract for personal property or contractual services, the awarding authority shall give a preference to commodities produced in Alabama or sold by Alabama persons, firms or corporations, provided there is no sacrifice or loss in price or quality. However, no awarding authority may specify the use of materials or systems by a sole source unless:

- The governmental body can document to the satisfaction of the Alabama Building Commission that the sole-source product or service is indispensable and that all other viable alternatives have been explored and it has been determined that this product or service is the only one that will fulfill the function for which the product is needed;

- The sole-source specification has been recommended by the architect or engineer of record and he or she documents that there is no other product available and that the product or service is indispensable and why; and

- All information substantiating the use of the sole-source

continued on page 23

LEGAL CLEARINGHOUSE

NOTE: Legal summaries are provided within this column; however, additional background and/or pertinent information will be added to some of the decisions, thus calling your attention to the summaries we think are particularly significant. We caution you *not* to rely solely on a summary, or any other legal information, found in this column. You should read each case in its entirety for a better understanding.

ALABAMA COURT DECISIONS

Building Codes: A City that was located within a county that had elected to be covered by the home remodeling regulation statutes (Section 34-14A-1 et seq., Code of Alabama 1975), which allowed homeowners to seek compensation from the Homeowner's Recovery Fund for damages sustained as a direct result of the conduct of licensed contractors, was subject to the statute even absent its express consent to come under the law. A homeowner was thus entitled to assert a negligence claim against the City for its failure to confirm contractor's licensure status before issuing a building permit, which in turn prevented the homeowner from seeking relief from said Fund. *Murry v. City of Abbeville*, --- So.2d ---, 2008 WL 2378809 (Ala.2008)

NOTE: Section 34-14A-1 et seq., Code of Alabama 1975, regulates the residential home-building and remodeling industries and applies to counties of 30,000 or more, but not counties with a smaller population unless the county commission elects to have the Act apply.

Courts: A defendant's conviction on two counts of unlawful possession of a controlled substance, which arose out of the seizure of two types of controlled substances from defendant's residence, violated double jeopardy. The prosecution is based on the act of possessing any controlled substance, and possession of both drugs represented one single act of possession. *Hollaway v. State*, 979 So.2d 839 (Ala.Crim.App.2007)

Courts: Total closure of the courtroom during testimony of the state's witness violates the defendant's Sixth Amendment right to a public trial. *Ex parte Easterwood*, 980 So.2d 367 (Ala.2007)

Licenses: The functionality test determines whether an insurance company is a fire or marine insurer or an insurer other than a fire and marine insurer for purposes of the statutory caps on municipal license fees. Taxpayers were not fire insurance companies, and, thus, one percent, rather than four percent, cap applied to municipal license taxes. The articles of incorporation for the businesses allowed the taxpayers to sell fire insurance, however 65% of the premiums earned by one taxpayer and 55% of the premiums earned by the other taxpayer were attributable to automobile insurance, and the sale of fire insurance was not the principal business endeavor. *Alfa Mutual Ins. Co. v. City of Mobile*, 981 So.2d 371 (Ala.2007)

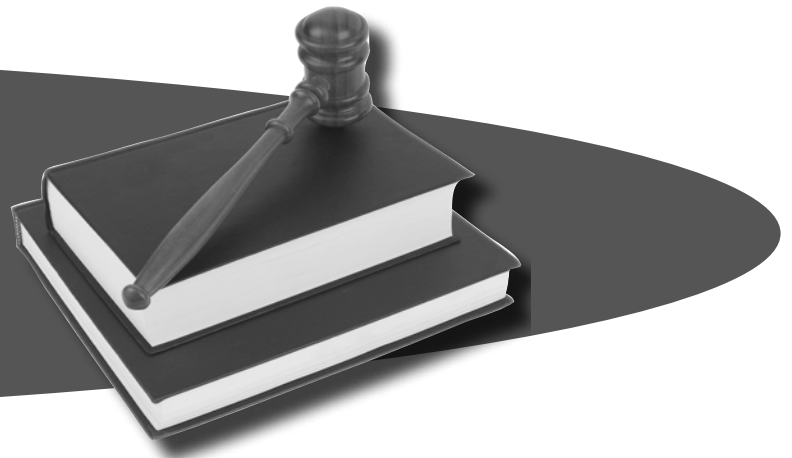
Schools: Parents, who were not attorneys, could not act as counsel, on behalf of their minor child, in a legal action against a school board. The rule providing that a representative of a minor may sue in the name of the minor does not confer upon the representative a right to practice law on behalf of that minor. *Chambers v. Tibbs*, 980 So.2d 1010 (Ala.Civ.App.2007)

Tort Liability: A property owner's filing of a police report against property occupiers did not amount to malicious prosecution or abuse of process. *Hurst v. Cook*, 981 So.2d 1143 (Ala.Civ.App.2007)

Zoning: A City was not estopped from enforcing its ordinance regarding placement of mobile homes where the clerk was misled. Although the city clerk gave homeowners permission to complete the nonconforming installation of their mobile home, he did so in an effort to accommodate homeowners, who had been left homeless following a tornado, and only after the homeowners, whether intentionally or inadvertently, misled him as to the dimensions of their property and had installed a new septic tank, field lines, concrete pad, and half of the mobile home. *Peterson v. City of Abbeville*, --- So.2d ---, 2008 WL 2469365 (Ala.2008)

Zoning: Testimony from councilmen and planning commission members constituted an independent and adequate basis for concluding that a city's decision to deny a rezoning application was not based solely on speculation and thus was not arbitrary and capricious. The standard of review in a zoning case is highly deferential to the municipal governing body. *Ex parte Nathan Rodgers Const., Inc.*, --- So.2d ---, 2008 WL 2469369 (Ala.2008)

Tracy L. Roberts
Assistant General Counsel



UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Courts: The “forfeiture by wrongdoing” exception to the hearsay rule does not apply simply because the defendant caused the witness to be unavailable. The common law “forfeiture by wrongdoing” exception to the confrontation requirement applied only when the defendant engaged in conduct designed to prevent a witness from testifying. The requirement of intent “means that the exception applies only if the defendant has in mind the particular purpose of making the witness unavailable.” *Giles v. California*, --- U.S. ---, 2008 WL 2511298 (U.S.2008)

Firearms: A Washington D.C. ordinance that prohibited the possession of firearms was held unconstitutional. The Second Amendment protects an individual’s right to possess a firearm unconnected with service in a militia, and to use that firearm for traditionally lawful purposes, such as self-defense within the home. *District of Columbia v. Heller*, --- U.S. ---, 2008 WL 2520816 (U.S.2008)

Housing: A landlord had standing to sue a Florida town and its officials for alleged discriminatory enforcement of its housing code to drive out Hispanic immigrant tenants. *Young Apartments, Inc. v. Town of Jupiter, Fla.* --- F.3d ---, 2008 WL 2277521 (11th Cir.2008)

Utilities: There is only one statutory standard for assessing wholesale electricity rates, whether set by contract or tariff, the just-and-reasonable standard. The presumption that the rate set out in a freely negotiated wholesale energy contract is just and reasonable applied to contracts negotiated by public utilities during the energy crunch in the West in 2000 and 2001. *Morgan Stanley Capital Group Inc., v. Public Utility District No. 1 of Snohomish County*, --- U.S. ---, 2008 WL 2520522 (U.S.2008)

DECISIONS FROM OTHER JURISDICTIONS

Elections: Congress acted within its constitutional authority when it extended for another 25 years the preclearance requirements set out in Section 5 of the Voting Rights Act. *Northwest Austin Municipal Utility District No. One v. Mukasey*, Civil Action No. 06-1384, (D.D.C.2008)

Employees: The supervisor of a fire department recruitment program did not violate a fire department recruit’s §1983 substantive due process rights by conducting strenuous training session outside in extreme heat and failing to bring water or medical supplies to the training session. Although the recruit died as a result of cardiac arrest caused by heat stroke, the recruit was free to walk away from the training session and the job. The supervisor had no affirmative duty, outside of state tort law, to create a safe place for training, and there was no showing that the supervisor knew in advance that the recruit was in serious danger of succumbing to heat stroke, so that supervisor’s conduct did not shock the conscience. *Waybright v. Frederick County, MD*, 528 F.3d 199 (4th Cir.2008)

Employees: Absent an employer monitoring policy, a police officer had a reasonable privacy expectation in text messages sent from his department supplied pager, and a text messaging service provider may not, consistent with the Stored Communications Act, surrender to the employer transcripts of archived text messages without the consent of either the sender or the recipient. *Quon v. Arch Wireless Operating Co., Inc.*, --- F.3d ---, 2008 WL 2440559 (9th Cir.2008)

ATTORNEY GENERAL’S OPINIONS

Competitive Bid Law: Section 11-43-12.1, Code of Alabama 1975, provides that a Class 7 or 8 municipality may enter into a contract with a business owned by a municipal officer or employee if the officer or employee is the only domiciled vendor of the personal property or service within the municipality, the officer or employee does not participate in the decision-making process, and the cost does not exceed \$3000. If the cost exceeds \$3000, the municipality may contract with the municipal officer or employee under the Competitive Bid Law, provided the official or employee does not participate in the decision-making process, is the lowest responsible bidder, and makes a full disclosure of the extent of his or her ownership in the business.

continued on page 31

LEAGUE POLICY COMMITTEE MEMBERS

The League has five standing policy committees comprised of mayors and councilmembers from each congressional district in the state. The committee chairs recently made appointments to these important League committees which will convene in late August and September at League headquarters to hear from state and federal resource advisors and to update their policy statements for the League's Policies and Goals document. This important document will be used by the Committee on State and Federal Legislation when it meets in November to develop the League's Legislative Package for the 2009 Regular Session. The League would like to thank the following committee members for their service in this important policy process:

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Chair: Mayor Dan Deason, Scottsboro
Vice Chair: Council President Ben Reed, Gadsden

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Council Member Carolyn F. Wood, Dauphin Island
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Council Member Carolyn M. Doughty, Gulf Shores
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Council Member Brentley Kendrick, Robertsdale
Council Member Newton Cromer, Saraland
2. Mayor Jerry B. Andrews, Andalusia
Mayor Bob Bunting, Ozark
Council Member Andy Gilland, Ozark
Council Member Winston T. Jackson, Ozark
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Mayor Anna Berry, Heflin
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Mayor Roy Dobbs, Berry
Mayor Bob Sharpe, Blountsville
Mayor Phil Segraves, Guin
5. Mayor Ted H. Letson, Courtland
Council Member Barbara Austin, Killen
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Council Member Frita Fears, New Hope
Council Member Frank L. Stevens, Sheffield
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Council Member Thomas Moore, Demopolis
Council Member Roberta Jordan, Pine Hill
Council Member Jean T. Martin, Selma
Council Member Tyrone Brown, Uniontown

Technical Advisors:

City Administrator Perry Wilbourne, Foley
City Manager Sam Gaston, Mountain Brook

Committee on Energy, Environment and Natural Resources

Chair: Mayor Howard Shell, Atmore
Vice Chair: Council Member Dean Argo, Prattville

Members from Congressional Districts

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Council Member Ralph Hellmich, Foley
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Mayor Pat Thomas, Dothan
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Mayor Johnny Ford, Tuskegee
Mayor Arnold Leak, Valley
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4. Council Member Bobby J. Griffin, Blountsville
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5. Council Member Hermon Graham, Florence
Council Member Mark E. Mizell, Jr., Hartselle
Council Member John A. McGee, Killen
Council Member Joseph E. Pampinto, Muscle Shoals
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continued on page 31

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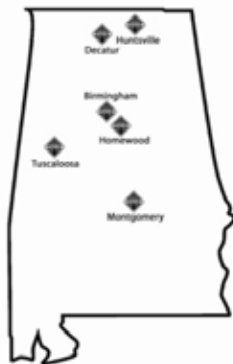
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Competitive Bid Law continued from page 17

product or service is documented in writing and is filed into the project file.

Where One or Less Bids Are Received

Where only one bidder responds to the invitation to bid, a municipality or municipal board may reject the bid and negotiate the purchase or contract, provided the negotiated price is lower than the bid price. AGO to Hon. Larry E. Brewer, December 13, 1973. If the awarding authority advertises for bids and receives none, the price may be negotiated with any contractor without advertising for bids a second time. AGO to Hon. L. R. Driggers, November 25, 1969.

Repair and Lease of Certain Equipment

All expenditure of funds of whatever nature for repair parts and repair of heavy-duty, off-highway construction equipment and of all vehicles with a gross vehicle weight rating of 25,000 pounds or greater, including machinery used for grading, drainage, road construction and compaction for the exclusive use of county and municipal highway, street and sanitation departments, involving not more than \$15,000 made on behalf of the municipality or the governing boards of its instrumentalities shall, at the option of the governing body or board, be exempt from bid law coverage. The foregoing exemption shall apply to each incident of repair as to any such repair parts, equipment, vehicles or machinery. The amount of such exempted expenditure shall not be construed to be an aggregate of all such expenditures per fiscal year as to any individual vehicle or piece of equipment or machinery. This option shall not be exercised by any employee, agent or servant unless done so after having received official prior approval of the respective governing body or board unless exercised pursuant to a formal policy adopted by such governing body or board setting out conditions and restrictions under which such option shall be exercised.

All expenditures of funds of whatever nature for the leasing of heavy-duty, off-highway construction equipment and all vehicles with a gross vehicle weight rating of 25,000 pounds or greater, including machinery for grading, draining, road construction and compaction, for the exclusive use of counties and municipalities, highway, street and sanitation departments, involving a monthly rental of not more than \$5,000 per month per vehicle or piece of equipment or machinery but not exceeding \$15,000 per month for all such vehicles and equipment, made by or on behalf of any municipality or the governing boards of its instrumentalities shall be made, at the option of the governing body or board, without regard to the provisions of the bid law. Section 41-16-52, Code of Alabama 1975.

Sales of Municipal Property

The competitive bid law only apply to the purchase of goods and services, it DOES NOT apply to the sale of municipal property. A municipality may sell real estate when it is no longer

needed for public purposes. Such a sale is not required to be made under the competitive bid law. 143 Quarterly Report of the Attorney General 21. City automobiles may be sold without competitive bid. AGO to Hon. John Starnes, April 3, 1975.

Joint Purchasing

Section 41-16-50, Code of Alabama 1975, states that two or more contracting agencies may provide, by joint agreement, for the purchase of labor, services, work, or for the purchase or lease of materials, equipment, supplies or other personal property, for use by the respective agencies. Such agreement shall be entered into by similar ordinances, in the case of municipalities or by resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services or work or for the purchase or lease of materials, equipment, supplies or other personal property to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of the agreement.

This section further provides that each contracting agency's share of expenditures for purchases under any such agreement shall be appropriated and paid for in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency.

Contracting agencies entering into such an agreement may designate a joint purchasing agent. Any purchases made pursuant to such an agreement are subject to the bid law.

Contracts in Violation of the Act Declared Void

The bid law states that contracts entered into in violation of its provisions shall be void. Anyone who violates the provisions of the bid law shall be guilty of a Class C felony. Class C felonies are punishable by a prison sentence of not more than 10 years or less than one year and one day.

Reverse Auctions

Section 41-16-54 provides that local awarding authorities can begin using reverse auction procedures on January 1, 2009. The Department of Examiners of Public Accounts must establish procedures for letting contracts through reverse auction by November 30, 2008. Items can be purchased through the use of a reverse auction only if either 1) the item is not available through the state purchasing program for the same terms and conditions, or 2) if the item is purchased for a price equal to or less than that available on the state bid list.

Life Cycle Costs

As of January 1, 2009, Section 41-16-57 permits local awarding authorities to take life cycle issues in consideration when letting bids, if these standards can be acquired from industry recognized and accepted sources. The Department of Examiners of Public Accounts must establish procedures for using life cycle costs by November 30, 2008.

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Life cycle costs are costs associated with acquisition, use, maintenance and other costs associated with ownership or use of the product being let over the expected life cycle of the product. The awarding authority must notify potential bidders at the time of issuing specifications that it will consider life cycle costs when letting the bid. The awarding authority must identify which sources it is using in making this determination.

Establishment of Purchasing Procedures and Facilities

The law requires governing bodies of municipalities to establish and maintain such purchasing facilities and procedures as may be necessary to carry out the intent and purpose of the law by complying with the requirements for competitive bidding in the operation and management of such municipalities and the instrumentalities and boards of such municipalities. For a sample purchasing procedure please contact the League.

Interest in Contracts by Municipal Officers or Board Members

Section 41-16-60, Code of Alabama 1975 declares that no member or officer of a municipal governing body or municipal board shall be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of or contract for, any personal property or contractual services. It further provides that a violation of this section shall be deemed a misdemeanor and any person who violates this section shall, upon conviction, be imprisoned for not more than 12 months or fined not more than \$500 or both. Further, upon conviction, any person who willfully makes any purchase or awards any contract in violation of this section shall be removed from office.

Notwithstanding any statute or law to the contrary, any municipality in Class 7 or Class 8 (under 12,000 inhabitants) may legally purchase from any of the elected officials, employees or board members of such municipality, any personal service or personal property under the competitive bid law procedures established by Article 3, Chapter 16, Title 41, Code of Alabama 1975. Such elected officials, employees or board members may legally sell such personal service or personal property to such municipality under the procedures of said statutes.

If an elected official proposes to bid, the official shall not participate in the decision-making process determining the need for, or the purchase of, such personal service or personal property or in the determination of the successful bidder. The governing body shall affirmatively find that the elected official, employee or board member, from which the purchase is to be made, is the lowest responsible bidder as required by said statutes. It shall be the duty and responsibility of the municipality to file a copy of any contract awarded to any of its elected officials with the State Ethics Commission and all awards shall be as a result of original bid takings.

Selected Cases and Attorney General Opinions on Interest

in Contracts by Municipal Officers or Board Members

- This section does not prohibit a municipality or county from dealing with incorporated firms which have as their officers or shareholders officials of the local government. 128 Quarterly Report of the Attorney General 30.

- This section does not prohibit a municipal official from bidding on real property being sold by the municipality. 129 Quarterly Report of the Attorney General 48.

- A councilmember may bid for the rights to construct a building for the city. However, if the bid is accepted, the councilmember must resign from office. AGO to Hon. William H. Tuck, January 30, 1968.

- A municipality may deal with a corporation in which a councilmember owns an interest as long as he does not own controlling interest in the corporation. AGO to Hon. Wayne Harrison, December 6, 1973.

- A councilmember may be an employee of a corporation which sells automobiles to the municipality on a competitive bid basis. AGO to Hon. Robert S. Milner, April 4, 1975.

- Section 41-16-60, Code of Alabama 1975, prohibits the awarding of a contract on a water works project to the water works superintendent. AGO to Hon. George W. Gibbs, September 30, 1975.

- A municipal official's son is not prohibited from bidding on a municipal contract because of kinship, as long as the father has no financial interest in his son's business. AGO to Hon. James C. Wood, September 10, 1975.

- A municipal employee may not enter into a contract with the municipality he works for even though the contract is won, under competitive bid, by a firm he owns. AGO to Hon. Fred G. Collins, May 8, 1975.

- A municipality may not deal with a family-held corporation where a member of the municipal governing body is also a member of the family that owns the corporation. AGO to Hon. Hubert G. Hughes, August 9, 1968.

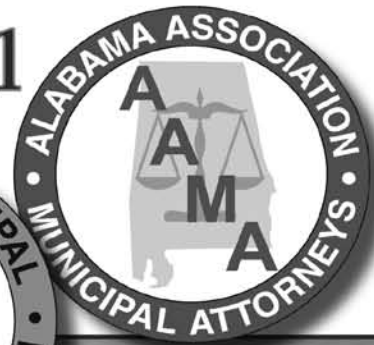
- A company owned by the son or daughter of a council member can contract with the city if the son or daughter is the apparent low bidder, provided the council member does not reside in the same household as his or her child and is not financially dependent on the son or daughter. If a council member abstains from voting on a matter in which he or she previously had a financial interest, and in which his or her child now has a financial interest, there is no violation of Sections 11-43-12, 11-43-53, and 11-43-54 of the Code of Alabama. AGO 2000-215.

- A city council member may not successfully bid, under the Competitive Bid Law, for any contract or service with the city he or she represents if he or she has any direct financial interest in the company bidding. AGO 2002-065.

- Under Section 11-43-12.1 of the Code of Alabama 1975, a class 8 municipality may do business with a company owned by a municipal officer when that company is the only domiciled vendor of that personal property or service within the municipality and the cost of the personal property or service

AAMA/AMJA Fall Municipal Law Conference

September 28-30, 2008



The AAMA/AMJA fall conference has been scheduled for September 28-30, 2008 at the Bay Point Marriott Resort in Panama City, Florida. This year's meeting promises to be exciting and informative. We expect to have many knowledgeable and informative speakers who will address topics that are of current interest. Speakers have been tentatively scheduled from the Attorney General's Office, The Alabama Supreme Court, The Department of Homeland Security (Immigrations and Customs Enforcement) as well as several experienced municipal attorneys and judges from across the State of Alabama.

The fall conference begins with registration at 12:30 p.m. Sunday, September 28, 2008, with a joint session for attorneys, prosecutors and judges. This session will cover the ethical issues, legislative updates and attorney general's opinions.

A reception follows the Sunday afternoon session so that you can meet informally with other municipal legal representatives. On Monday morning there will be a joint session followed by two separate concurrent sessions that will be held, one for attorneys and another for prosecutors and judges. As always, you are free to attend either session, or switch between sessions as desired.

Planned topics for the prosecutors and judges include:

- DUI Sentencing
- DNA Kits
- Bond Forfeitures
- Expungement of Records
- Mental Health Courts

Planned topics for the attorneys include:

- Railroad Regulation
- State Agent Immunity
- Impact Fees
- Drainage Liability
- Amendment 772

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does not exceed \$3000 annually. AGO 2005-118.

Collusive Bidding

Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement to bid at a fixed price, to refrain from bidding or otherwise, shall render the bids of such bidder void and shall cause such bidders to be disqualified from submitting further bids to the awarding authority on future purchases. Whoever knowingly participates in a collusive agreement in violation of this law involving bids of \$15,000 or less shall be guilty of a Class A misdemeanor. Whoever knowingly and intentionally participates in a collusive agreement in violation of this law involving bids of more than \$15,000 shall be guilty of a Class C felony. Section 41-16-55, Code of Alabama 1975, as amended.

Statute of Limitations on Competitive Bid Law Violations

A prosecution for any offense in violation of the competitive bid law must be commenced within six years after the commission of the offense.

Advance Disclosure of Terms of Bid Submitted Renders Proceeding Void

The law declares that any advance disclosure of the terms of a bid submitted in response to an advertisement for bids shall render the proceedings void and re-advertisement shall be required. The law requires that all bids must be sealed and must be opened in public at the hour stated in the notice. The law does not require that the bids be opened at a meeting of the entity asking for bids. However, acceptance of a bid can only be made by the adoption of a resolution by the entity that asked for bids at a public meeting of that entity.

Bids may be requested by telephone but they cannot be accepted or received by telephone. AGO to Hon. Charles C. Rowe, October 8, 1975, and AGO 1983-199 (to Hon. F. R. Albritton, Jr., February 22, 1983).

A written proposal on the outside of a sealed envelope, in which a bid is contained, made prior to the opening of the bid may be considered as a part of the bid proposal. AGO to Hon. Thomas M. Galloway, May 2, 1974.

Notice Requirements

All proposed purchases in excess of \$15,000 shall be advertised by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for such lengths of time as may be determined, provided however, that sealed bids shall also be solicited by sending notice by mail to all persons, firms or corporations who have filed a request in writing that they be listed for solicitation on bids for such particular items as set forth in such request.

The law does not specify the length of time a bid has to be advertised by posting or any other way. Failure of a firm or person to submit a bid after three solicitations shall be reason

for discontinuing special notice to such person or firm.

For advertising requirements on public improvement contracts, *see* Section 39-2-2, Code of Alabama 1975.

Maintaining Records Open to Public Inspection

All documents pertaining to the award of a contract by a public agency are public records. AGO 1995-010. All original bids together with all documents pertaining to the award of the contract shall be retained for a period of seven years from the date the bids are opened and shall remain open to public inspection.

In 2004, the Legislature amended several Sections 13A-14-2, 36-12-40, 39-2-2, and 41-16-51, Code of Alabama 1975, relating to the Open Records Law, the Sunshine Law, the Competitive Bid Law, and the Public Works Law, to codify existing case law and to exempt records, information, or discussions concerning security plans, procedures, or other security related information from the purview of those laws.

Division of Contracts Forbidden

The law forbids the division of a purchase or contract of \$15,000 or more into parts to avoid competitive bidding thereon. Such partial contracts are declared to be void. A county may not be broken into districts, divisions or otherwise to evade competitive bidding. 128 Quarterly Report of the Attorney General 15.

Payment of monthly bills for ambulance services are not subject to the competitive bid law if the monthly bills are under the amount subject to the bid law. AGO to Hon. B. R. Winstead, Jr., October 25, 1967. The law does not require a municipality to contract for the construction of a new building in a single contract. Separate contracts may be awarded for plumbing, heating, electricity and similar portions of the building process as long as the contract is not divided merely to avoid the law. AGO to Hon. J. W. Oakley, Sr., November 22, 1967.

Although the competitive bid law prevents division of purchase orders into parts to avoid the law, it does not prevent the division of invitations to bid. AGO to Hon. Thomas A. Dujanovic, September 13, 1973.

Emergency Purchasing

In the case of an emergency affecting public health, safety or convenience, so declared in writing by the awarding authority setting forth the nature of the danger that would be caused by delay, contracts may be let without public advertisement to the extent necessary to meet the emergency. Such actions must be made public immediately by the awarding authority. Generally, the term "emergency" signifies a situation which has suddenly and unexpectedly arisen which requires speedy action. 128 Quarterly Report of the Attorney General 40.

The Attorney General cannot declare an emergency under the competitive bid law. A municipal council is given authority to let contracts without advertisement in emergency situations when public health, safety or convenience is involved in the

delay of acquiring needed equipment. A municipality need not seek bids on a garbage truck if an emergency situation is declared and the provisions of Section 41-16-53 of the Code are complied with. AGO to Hon. Frank T. Ferrire, February 14, 1974.

Under provisions of the competitive bid law, an emergency must be declared by the municipal purchasing officer prior to the performance of any work by the contractor. The municipal council may not declare an emergency after the work has been performed by the contractor. However, after the contract has been performed, the council may provide funds to pay the contractor if the purchasing officer properly authorized the contract to be made on a negotiated basis because of an emergency. AGO to Hon. Carl H. Kilgore, May 12, 1975.

When a county jail has been severely damaged by fire, there is an emergency which could affect the public health, safety or convenience. Therefore, the county governing body can award a contract for repairs without public advertisement under the authority of Section 41-16-53, Code of Alabama 1975. AGO to Hon. Dave Headrick, October 30, 1975.

In certain limited circumstances such as those that existed during the energy crisis of the mid-1970s, emergency procedures may be employed to purchase critical materials. See, AGO's to Howard L. White, November 29, 1973; James T. Sowell, January 11, 1974; and Hon. William Roy Williard, February 7, 1974.

A purchase previously made by a city cannot be treated as an emergency purchase at the present time in order to save a contract which would be void for non-compliance with the bid law. AGO 1983-426 (to Hon. Frank A. Hickman, August 10, 1983).

Bonds

The law provides that faithful performance bonds may be required by the awarding authority from all bidders. Whether to require a bid bond is optional on the part of the awarding authority, provided that 1) bonding is available, 2) the requirement applies to all bidders, and 3) is included in the written specifications for the bid.

The bid bond required by Section 41-16-50(c), Code of Alabama 1975, should be for an amount which would protect the municipality against a change of status involving substantial damages, loss or detriment. A bid bond remains in effect until the contract is made. AGO 1982-220 (to Hon. Herman Cobb, March 3, 1982).

According to the Attorney General, irrevocable letters of credit may be accepted instead of a bid bond. AGO 1992-053. If required, bid bonds must be properly executed before a bid can be considered. AGO 1990-140. For bonding requirements on public works contracts, see Section 39-1-1, Code of Alabama 1975.

Awarding the Contract – Basis of Decision

Bids are to be opened at the time stated in the request for bids by the person or persons designated by the awarding

authority. The bid opening shall be open to the public. The person or persons responsible for opening the bids shall tabulate the bids and present the results to the awarding authority at its next meeting. AGO 1980-495 (to Hon. A. R. McVay, August 6, 1980).

Awards shall be made to the lowest responsible bidder taking into consideration the qualities of the commodities proposed to be supplied, their conformity with specifications, the purposes for which required, the terms of delivery, transportation charges and the dates of delivery. Provided there is no loss of price or quality, a preference shall be given to commodities produced in Alabama or sold by an Alabama bidder. However, preference may not be given to American products where foreign products of the same quality may be purchased at a lower price. 128 Quarterly Report of the Attorney General 14.

Restrictive specifications and brand names should be reasonably related to the work or job to be performed and the quality or purpose of the product to be obtained and may not be used to prevent or restrict full and free competition on the open market. It is no objection that the material required can be furnished by one party provided it is readily obtainable on the open market. 130 Quarterly Report of the Attorney General 15. See also, *White v. McDonald Ford Tractor Co.*, 287 Ala. 77, 248 So.2d 121 (Ala. 1971). Specifications contained in bids written around a certain product must be justified prior to taking bids. Other bidders must be permitted to submit bids with their own specifications showing that their products are equal to those requested by the awarding authority. AGO 1988-001. See also, AGO 2006-098.

The fact that a bidder has not qualified to do business in Alabama is sufficient to support a determination that the bidder is not a responsible bidder. AGO to Hon. Fred Collins, August 20, 1976.

Under the Competitive Bid and Public Works Laws, a conviction and debarment by a federal agency are factors that a county commission may use to determine if a bidder is responsible, including in the prequalification procedure. AGO 2007-063.

If the low bid does not meet specifications, the awarding authority may award the contract to the next lowest bidder. *White v. McDonald Ford Tractor Co.*, 287 Ala. 77, 248 So.2d 121 (Ala. 1971). The reasons for not awarding the contract to the lowest bidder must be stated on the successful award and left open to public inspection. AGO to Hon. Douglas Rudd, November 4, 1976.

A "low bid" is the lowest unit price of an article. Warranty and repurchasing agreements should not be used in computation of a low bid, but these items may be used in determining the lowest responsible bidder, as these terms affect quality. 141 Quarterly Report of the Attorney General 8.

Bids submitted by fax may not be accepted. AGO 1991-016.

A written proposal on the outside of a sealed bid made prior to the bid opening can be considered part of the bid proposal. AGO 2005-160.

Alternative Bidding

Section 41-16-57 provides a procedure for awarding a contract to the second lowest bidder when the lowest bidder defaults. This provision allows the municipality to cancel the contract following a default by the lowest bidder and award it to the second lowest bidder. The contract with the second lowest bidder must be let on the same terms and conditions contained in the original bid specifications and must be awarded for no more than the second lowest bidder originally bid.

Rejection of Bid

The awarding authority may reject any bid if the price is deemed excessive or if the quality of the product is inferior. Each record, with the successful bid indicated thereon and with the reasons for the award, if not awarded to the lowest bidder, shall be open to public inspection. The awarding authority may reject any bid and negotiate in the event that only one bid is submitted and may further reject any bid if the price is deemed excessive or the quality of the product is deemed inferior.

In the event all bids are equal in price and the quality of the products is the same, the awarding authority may reject all bids and negotiate for price, or reject and solicit new bids or contract with any low bidder of its choice. 128 Quarterly Report of the Attorney General 40. In such circumstances, negotiations may be with any provider of such product or service. In the event all bids are rejected on a project, the project must be re-bid. AGO 1980-047 (to Ralph Smith, Jr., October 29, 1979).

A city may not negotiate with the low bidder where the price exceeded the funds available. New bids must be sought on the basis of specifications which are new. AGO to Hon. Jess Lanier, May 14, 1971. An awarding authority may negotiate a lower contract amount with the successful bidder provided there is no change in the specifications. AGO 1995-002.

Public agencies have discretion to determine which bidder is the lowest responsible bidder. A court will not interfere in that discretion unless it is exercised arbitrarily or capriciously or unless it is based on a misconception of the law or is the result of improper influence. *Crest Construction Corporation v. Shelby County Board of Education*, 612 So.2d 425 (Ala. 1992).

Contracts Limite

• Contracts for the purchase of personal property or contractual services shall be let for periods not greater than three years. "Lease purchase" contracts for capital improvements and repairs to real property shall be let for periods not greater than 10 years and all other lease-purchase contracts shall be let for a periods not greater than 10 years. Section 41-16-58, Code of Alabama 1975. A contract that is exempt from the competitive bid law is not subject to the three-year limitation on public contracts for purchases of personal property or contractual services in Section 41-16-57(e) of the Code. AGO 2000-152.

• The three year limit found in Section 41-16-57(e) of the Code of Alabama on public contracts for contractual services

applies only to contracts that are competitively bid. AGO 2001-048.

• The three-year limitation on public contracts for the purchase of personal property or contractual services, found in Section 41-16-57(e) of the Code of Alabama 1975, applies only to contracts that are competitively bid. AGO 2005-192.

Effect of State Bid Price on Municipal Bids

State contracts made for the benefit of counties, school boards and municipalities may be utilized by such agencies without further bidding. However, if the state has awarded a contract to a vendor strictly for its own needs and not for the benefit of a county or a municipality, then the municipality or county would be bound to purchase pursuant to the competitive bid law.

The state bid should state in writing that the contract was let for the benefit of counties and municipalities as well as the state. AGO to Hon. Barry McCrary, April 23, 1974. Local governments cannot use the state bid price where the amount to be purchased as set out in the bid specifications has been fulfilled. AGO to Hon. Jesse J. Lewis, July 8, 1976.

In addition to the state bid price considerations discussed, Section 41-16-51.1 provides that if there is a state contract for services let by a non-statewide agency, a municipality may contract for those same services for an amount not exceeding the non-statewide agency's contract amount. A city is not required to use the same vendor as the non-statewide agency.

A municipality cannot use the county bid price or the General Services Administration bid price in order to purchase items without bidding. AGO 1983-467 (to Hon. Roy P. Vice, September 9, 1983); AGO 1983-426 (to Hon. Frank A. Hickman, August 10, 1983).

Contracts Not Assignable Without Consent of Awarding Authority

No contract awarded to the lowest responsible bidder shall be assignable by such successful bidder without written consent of the awarding authority. In no event may a contract be assigned to an unsuccessful bidder who was rejected because he or she was not a responsible bidder. ■



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Municipal Overview continued from page 7

Our CMO program will hold its 2008 graduation exercises on July 22, 2008. Since inception, 2832 officials have been a part of the program. Active officials currently enrolled number 1,454. To date, the program has 817 Basic CMO graduates and 360 Advanced CMO graduates. I thanked Theresa Lloyd for her hard work on the program.

The Water Resources Research Institute (WRRI) of the University of North Carolina, in collaboration with the state leagues in Georgia, North Carolina, South Carolina and Alabama, is in the process of submitting a proposal to RBC Blue Water Project to create a Sustainable Water Use Initiative. If the grant is approved, the League will hold two seminars per year in Alabama to educate city officials and water managers. One of the goals is to teach citizens about the need to conserve our water resources.

During the League convention in Birmingham, the Alabama Tourism Department announced its theme for 2010 – Year of Alabama Small Towns and Downtowns. A brochure was given to board members explaining the program and members were encouraged to participate. The deadline is December 2008.

The NLC Congress of Cities will be held on November 11-15, 2008, in Orlando, Florida. The Alabama reception is scheduled for Friday evening, November 14, from 5:30 to 6:30 p.m. in Crystal Ballroom J-1 at the Orlando World Center Marriott. Additional information will be coming soon.

Mayor Duran asked members to think about the possibility of the League providing some full or partial scholarships for officials to attend CMO classes. It was decided that the issue would be reviewed by Mayor Duran and the staff following the elections.

Future meeting dates were announced as follows:

- CMO Graduation – July 22, 2008
- Policy Committee Meetings – July 25 (HD); Aug. 6 (TPSC); Aug. 12 (EENR); Aug. 13 (FAIR); Sept. 9 (CED)
- Election Day – August 26, 2008
- AAMA Mid-Year Meeting, Sept, 28-30, Panama City, FL
- Runoff Election – October 7, 2008
- MWCF Board Meeting – October 15, 2008
- Year-End Executive Committee – October 16, 2008
- AMIC Board Meeting – October 16, 2008
- Newly Elected Officials Orientation, Oct/Nov, Regional
- Date of Taking Office – November 3, 2008
- NLC Congress of Cities – November 11-15, Orlando, FL
- Committee on State & Federal Legislation – Dec. 4, (tentative)
- Mid-Winter Executive Committee – Jan. 15, 2009 (tentative)
- First Day of Regular Session – February 3, 2009
- Congressional City Conference – March 14-18, 2009 – Washington, DC
- Southern Municipal Conference Leadership Meeting – April 2009 – Lost Pines, TX
- League Convention – May 2-5, 2009 - Montgomery

The Director reviewed the Statement of Revenues & Expenditures in Comparison to the Budget and also submitted a proposed budget for the 2008-2009 Fiscal Year. Mayor Leon Smith of Oxford moved adoption of the budget as presented. The motion, which was seconded by Council Member Isabell Boyd of Brundidge, was approved unanimously.

Mayor Leon Smith of Oxford, President of the Municipal Workers' Compensation Fund; Mayor Bobby Payne of Tallassee, Chair of the Alabama Municipal Insurance Corporation; and Mayor Roy Dobbs of Berry, Chair of the AMFund Board presented the reports on the activity of their respective programs that were distributed in each packet.

League Deputy Director/General Counsel Ken Smith gave the legal report. He discussed the upcoming elections and election law changes. He also discussed the new bid law which will take effect on August 1. A recent court decision providing for civil penalties against officials who give a building permit to contractors without a state license was also mentioned.

Monty Pagueot, Director of Information Systems, presented the IT Report. He informed committee members of changes in the League bulletin boards, the League's new VOIP phone system and several applications being developed by the IT staff. He also pointed out the League's current backup systems and our website videos.

League Director of State and Federal Relations Greg Cochran provided an update on the latest happenings in Washington. The pending federal collective bargaining legislation was of much interest. He said it appeared there would be no special session this year since Volkswagen announced its plans to build a new plant in Tennessee. He also urged members to discuss the proposal to eliminate sales tax from food. The League Director reviewed the recent Regular and Special Sessions. Legislative Liaison Hal Bloom asked members to contact their legislators on League issues. ■



Rep. Bill Dukes addressed graduates at the 2008 CMO Ceremony on July 22 in Montgomery.

Committee Members continued from page 21

2. Mayor Wess Etheredge, Daleville
Council Member Jeddo Bell, Greenville
Council Member Charlie Johnson, Luverne
Council Member Fred Watts, Millbrook
Council Member Davy Lindsey, Opp
Mayor Jim Byard, Prattville
3. Council Member Ben Little, Anniston
Mayor B. J. Meeks, Childersburg
Mayor Joseph Roberson, Ohatchee
Council Member Ed Hanson, Piedmont
Council Member Arthur Sumbry, Phenix City
Council Member John Hatley, Southside
4. Mayor Charles O'Rear, Attalla
Mayor Gary L. Livingston, Eva
Mayor Melvin Duran, Priceville
Council Member Wayne Dunkin, Priceville
Mayor Kenneth Brand, Sardis City
Council Member Randy Brown, Winfield
5. Mayor Dan Williams, Athens
Council Member Gary Hammon, Decatur
Council Member Bill Kling, Huntsville
- Mayor Kenneth Copeland, Littleville
Mayor David H. Bradford, Muscle Shoals
Council Member George E. Johnson, Sr., Tuscumbia
6. Council Member Carol Duncan, Birmingham
Council Member Bobby Phillips, Calera
Mayor George Roy, Calera
Council Member Jeffrey M. Denton, Chelsea
Mayor Billy Joe Driver, Clanton
Mayor Barry McCulley, Homewood
Mayor Bobby Hayes, Pelham
Council Member Willard Payne, Pelham
Council Member Joe Matthews, Tarrant
Council Member James E. Robinson, Trussville
7. Mayor John Lammers, Carrollton
Council Member Johnnie Davis, Greensboro
Mayor Jack Fendley, Pennington
Mayor Harry Mason, Pine Hill
Mayor James Perkins, Selma

Technical Advisors:

Administrative Assistant Donna Treslar, Pelham
City Manager Britt Thomas, Brundidge

Legal Clearinghouse continued from page 19

See Section 11-43-12.1, Code of Alabama 1975. The municipal officer or employee may act as a subcontractor on city work exceeding \$3000 if the official or employee does not participate in the decision-making process and makes a full disclosure of the extent of his or her ownership in the business. AGO 2008-092

Competitive Bid Law: Contracts between public entities are not required to be competitively bid. Solid waste disposal contracts between the County and municipalities are not required to be let by competitive bidding. AGO 2008-093

Conflicts of Interest: A member of the Walker County Civil Service Board ("Board") vacates his or her position on the Board at the time he or she files qualifying papers for an elective office, due to a provision of Act 80-673 which authorized creation of the board. The board member's subsequent withdrawal as a candidate for elective office does not reinstate the board member. A vacancy exists on the Board that may be filled by appointment in accordance with section 5 of Act 80-673. AGO 2008-086

Courts: Absent a constitutional amendment, Section 96 of article IV of the Constitution of Alabama prohibits the Legislature from enacting legislation that would increase court costs, fees, and charges in less than all of the counties in the state. AGO 2008-096

Gasoline Tax: Act 54 (1951), which authorizes Montgomery County "to impose an excise tax of one cent per gallon upon the selling, distributing, storing, or withdrawing from storage, for any use, of motor fuels...", does not include the State of Alabama or its agencies as a "person" subject to a Montgomery County excise tax on gasoline. AGO 2008-089

Police Department: Members of the Alabama Peace Officers' Annuity & Benefit Fund ("Fund") who are also service members must pay their contributions to the Fund while they are on active duty, or at a minimum, pay the total amount that they would have paid monthly during their absence after they return within such time that is no less than three times the length of time they were away, not to exceed five years, to receive qualified service payment. AGO 2008-090

Retirement: A former elected official convicted of a federal felony offense of extortion is not entitled to receive any benefits from the office and, therefore, is not entitled to the payment of health insurance premiums by the governing body. The Alabama Supreme Court has held that removal from office also carries with it forfeiture of the benefits of the office. *Hogan v. Bronner*, 491 So.2d 226 (Ala.1986). AGO 2008-091

Appropriations: A County Board of Education ("Board") may enter into contractual arrangements with a City ("City") as long as the school board receives fair and adequate consideration for these transactions and the Board determines that its actions serve a public purpose. The City may enter into the contractual arrangements with the Board as long as any funds expended by the City serve a public purpose and the arrangement does not bind future councils. AGO 2008-101

2008 ADVANCED CERTIFIED MUNICIPAL OFFICIALS

Councilmember Glenn C. Thomas, Alexander City
Councilmember Bridges D. Anderson, Andalusia
Councilmember Dianne Prestridge, Arab
Councilmember Reuben L. Bowden, Brundidge
Councilmember Terry Leesburg, Center Point
Councilmember Winston E. Chapman
Councilmember Juanita J. Champion, Chelsea
Councilmember Jeffrey M. Denton, Chelsea
Mayor Charles D. Hart, Clay
Mayor Jack Pelfrey, Clio
Councilmember Tom Seale, Columbiana
Mayor Lomax Smith, Cottonwood
Councilmember Tayna M. Rains, Dutton
Mayor Clark S. Cathey, Elberta
Councilmember Hermon T. Graham, Florence
Mayor Katie Whitley, Hanceville
Mayor Dwight Tankersley, Hartselle
Councilmember John E. Schoen, Irondale
Councilmember Wayne Byram, Leesburg
Councilmember Dianne Tillery, Leesburg
Councilmember Franklin K. Brewster, Leesburg
Councilmember Jean B. Burk, Lincoln
Mayor Gary R. Richardson, Midfield
Mayor Don P. Parker, Midland City
Mayor Harvey Fretwell, Northport
Mayor Frank Tew, Notasulga
Councilmember Jim W. Bradley, Opp
Councilmember Edward H. Carroll, Sr., Orange Beach
Councilmember Winston T. Jackson, Ozark
Councilmember Charles T. Weed, Pinckard
Councilmember Willie L. Wood, Jr., Prattville
Councilmember John C. Oakley, Priceville
Councilmember Emanuel L. Phillips
Councilmember William T. Black, Satsuma
Mayor Dan Deason, Scottsboro
Mayor Richard L. Buckner, Springville
Councilmember Gena Mullen, Springville
Councilmember James Larry Stirling, Springville
Mayor Stevan H. Parsons, Sylvan Springs
Mayor Loxcil Tuck, Tarrant
Councilmember Joe A. Matthews, Tarrant
Councilmember James E. Robinson, Trussville
Councilmember Charlene Atkinson, Valley
Mayor Keith Mahaffey, Vance
Councilmember Theodore Hines, Warrior
Councilmember James F. Jett, Warrior
Councilmember Jerry Huddleston, Wedowee

2008 CERTIFIED MUNICIPAL OFFICIALS

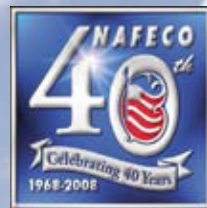
Councilmember Billy R. Helms, Abbeville
Councilmember Robin Kelley, Auburn
Councilmember Ida Mae Coleman, Bayou La Batre
Councilmember Henry E. Uptagrafft, Brewton
Councilmember Rhonda Bean, Brighton
Councilmember David Bradshaw, Calera
Councilmember Leatha R. Harp, Cedar Bluff
Councilmember Harry Moon, Centre
Councilmember Rita H. Stover, Centre
Councilmember Willie J. Ham, Childersburg
Councilmember James L. Henderson, Eva
Councilmember Daniel R. Stankoski, Fairhope
Councilmember Wendell Phillips, Gardendale
Mayor Lamar Hudson, Grove Hill
Councilmember Jimmy A. Elliott, Haleyville
Councilmember Barbara F. Hyche, Helena
Councilmember Jerry D. Heard, Hokes Bluff
Councilmember Joan H. Ratchford, Irondale
Councilmember James Stewart, Irondale
Councilmember Jerry Parris, Jacksonville
Mayor Jerry F. Mitchell, Killen
Mayor Oscar Crawley, Lanett
Councilmember John D. Duskin, Lanett
Councilmember Patsy Capshaw Skipper, Midland City
Councilmember Robert D. Vickery, Moody
Mayor Jerri McLain, Mooresville
Councilmember James Adams, Mount Vernon
Councilmember John L. Myers, Northport
Mayor H. D. Edgar, Opp
Mayor Hoyt Sanders, Pinson
Councilmember Joe Cochran, Pinson
Councilmember John Churchwell, Jr., Pinson
Councilmember Joy McCain, Pinson
Mayor Rusty Jessup, Riverside
Councilmember George Evans, Selma
Mayor Billy Don Anderson, Sheffield
Councilmember Brandon Gray, Stevenson
Councilmember Grady M. Thompson, Sylvan Springs
Mayor L. Vaughn Goodwin, Trinity
Councilmember Georgette B. Moon, Tuskegee
Councilmember Shawn Jarrell, Valley
Councilmember Johnny L. Ragland, Warrior
Councilmember Brenda Boone, Wedowee
Councilmember Jeanne Champion Fisch, Westover
Councilmember Annette Tyler, Westover
Councilmember Ken Hammock, Wetumpka
Councilmember Elaine Lewis, Wetumpka
Councilmember Donald "Chick" McConnell, Wetumpka

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*Fire Chief Tom Bradley
Mayor Tony Petelos*



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Showcase your Municipality



The Alabama League of Municipalities is holding a photo contest! The First Place winning photo will be featured on the cover of the **2009 Annual Directory**! Other honorable mention photos may be used in the *Alabama Municipal Journal*. **Entry form available online at www.alalm.org.**

2009 Municipal Photo Contest

INVOLVE YOUR COMMUNITY

Run a community wide contest, hold a contest at your community school, send the winners to us to compete statewide. Winners' name will be published with photograph along with photo description!

To Enter:

Photos must be taken of your municipality. Municipal buildings, parks, street scenes, downtowns, city festivals, etc. are all acceptable. Photos do not have to be taken by a professional photographer; however, all photos must be taken within the last 18 months. **ALL ENTRIES SHOULD BE VERTICAL.**

Photo Format:

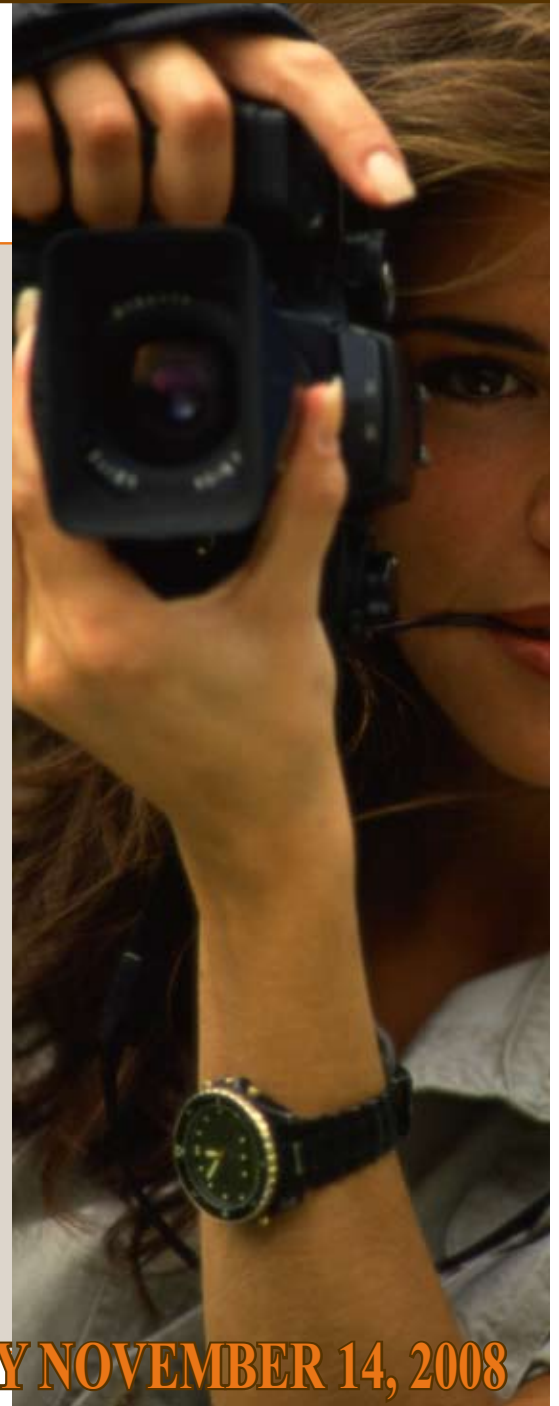
Entries should be vertical, color images and submitted in JPEG or TIFF format in a resolution high enough for print quality purposes. Photos must be submitted on a cd. The page size is about 8.5 x 11 and the image should be at least 150 dpi at this size (1,200 x 1,500 pixels), although 300 dpi (1800 x 1200 pixels) is preferred. **Submissions that are not print quality size or vertical will be disqualified.**

Return of Photos:

Photo files will not be returned. Please do not send your only file of a photo.

Ownership/Use Rights:

Photographers retain the copyright to their photographs. By entering the Alabama League of Municipalities (ALM) photo contest, photographers agree to have their submitted photograph displayed on any ALM publication as well as the ALM website without any fee or other form of compensation, and also agree that the photo may be used, with photo credit, on the website for the National League of Cities (NLC) and within NLC's publications. Photos will be credited to the photographer named in the entry form. Entries will never be used by ALM in any manner for advertising or sale. In the event that ownership of any photograph submitted to ALM is contested in any manner, ALM retains the discretion to disqualify that photograph and discontinue use of the photograph.



ALL ENTRIES MUST BE SUBMITTED BY NOVEMBER 14, 2008

AMFund

To assist municipalities throughout the state, the Alabama League of Municipalities (ALM), has developed the Alabama Municipal Funding Corporation (AMFund) to provide low-cost financing to ALM Members.

Tax-exempt notes are issued from which ALM members can borrow at low tax-exempt interest rates to fund or refund almost any municipal project. Additionally, AMFund can provide your municipality with significant financing advantages:

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For more information, visit www.alalm.org or contact AMFUND Marketing Director Greg Cochran at 334-262-2566 or via email at gregc@alalm.org.

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