

# THE ALABAMA MUNICIPAL **JOURNAL**

July 2003

Volume 61, Number 1

## **Congratulations CMO graduates!**



**2003 Advanced CMO Graduates**



**2003 Basic CMO Graduates**



**2003 Basic CMO Graduates**

Alabama League of Municipalities  
PO Box 1270  
Montgomery, AL 36102  
CHANGE SERVICE REQUESTED

Presorted Std.  
U.S. POSTAGE  
PAID  
Montgomery, AL  
PERMIT NO. 340

# ADD PEACE OF MIND



## By joining our Municipal Workers Compensation Fund!

- Discounts Available
- Accident Analysis
- Personalized Service
- Monthly Status Reports
- Directed by Veteran Municipal Officials from Alabama
- Over 550 Municipal Entities Participating

# Write or Call TODAY:

**Steve Martin**  
Municipal Workers  
Compensation Fund, Inc.  
P.O. Box 1270  
Montgomery, AL 36102  
**334-262-2566**



**Millennium Risk Managers**  
P.O. Box 26159  
Birmingham, AL 35260  
**1-888-736-0210**

# THE ALABAMA MUNICIPAL JOURNAL

Official Publication, Alabama League of Municipalities

July 2003 • Volume 61, Number 1

## • OFFICERS

DAN WILLIAMS, Mayor, Athens, President  
 JIM BYARD, JR., Mayor, Prattville, Vice President  
 PERRY C. ROQUEMORE, JR., Montgomery, Executive Director

## • CHAIRS OF THE LEAGUE'S STANDING COMMITTEES

### Committee on State and Federal Legislation

MICHAEL C. DOW, Mayor, Mobile, Chair  
 CARROLL L. WATSON, Lincoln, Vice Chair

### Committee on Finance, Administration and Intergovernmental Relations

CHARLES MURPHY, Mayor, Robertsedale, Chair  
 JAY JAXON, Mayor, Eufaula, Vice Chair

### Committee on Energy, Environment and Natural Resources

DEBBIE QUINN, Councilmember, Fairhope, Chair  
 ARTHUR DAVIS, Councilmember, Calera, Vice Chair

### Committee on Community and Economic Development

BOB BUNTING, Mayor, Ozark, Chair  
 LEE GARRISON, Councilmember, Tuscaloosa, Vice Chair

### Committee on Transportation, Public Safety and Communication

DON MOORE, Councilmember, Uniontown, Chair  
 LEWIS E. WASHINGTON, SR., Councilmember, Wetumpka, Vice Chair

### Committee on Human Development

TOM OWINGS, Councilmember, Brent, Chair  
 RANDALL SHEDD, Mayor, Fairview, Vice Chair

## • THE STAFF

PERRY C. ROQUEMORE, JR., Executive Director, perryr@alalm.org  
 J. KENNETH SMITH, Deputy Director/Chief Counsel, kens@alalm.org  
 STEPHEN S. MARTIN, Finance Director, stevem@alalm.org  
 ROBERT C. BLACK, General Counsel  
 CARRIE A. BANKS, Communications Director, carrieb@alalm.org  
 GREGORY D. COCHRAN, Director, State and Federal Relations, gregc@alalm.org  
 EDYE GOERTZ, Member Services Director, edyeg@alalm.org  
 LORELEI A. LEIN, League Counsel, loril@alalm.org  
 MARY ELLEN WYATT HARRISON, Staff Attorney, marye@alalm.org  
 TWANNA MILLER KING, Legal Research, twannak@alalm.org  
 SHARON CARR, Administrative Assistant, sharonc@alalm.org  
 FAITH ANN GUNN, Accounting Manager, faitha@alalm.org  
 THERESA ROGERS, CMO Program Administrator, theresar@alalm.org  
 RACHEL WAGNER, Librarian, rachelw@alalm.org  
 LAURA ANNE WHATLEY, Legal/Communications Assistant, lauraw@alalm.org  
 STEVE WELLS, President, AMIC, stewew@AMICentral.org

## • ACTIVE MEMBERS (441)

Abbeville, Adamsville, Addison, Akron, Alabaster, Albertville, Alexander City, Aliceville, Allgood, Altoona, Andalusia, Anderson, Anniston, Arab, Ardmore, Argo, Ariton, Arley, Ashford, Ashland, Ashville, Athens, Atmore, Attalla, Auburn, Autaugaville, Avon, Babbie, Baileyton, Baker Hill, Banks, Bay Minette, Bayou La Batre, Bear Creek, Beatrice, Beaverton, Belk, Benton, Berry, Bessemer, Billingsley, Birmingham, Blountsville, Blue Springs, Boaz, Boligee, Branchville, Brantley, Brent, Brewton, Bridgeport, Brighton, Brilliant, Brookside, Brookwood, Brundidge, Butler, Calera, Camden, Camp Hill, Carbon Hill, Cardiff, Carrollton, Castleberry, Cedar Bluff, Center Point, Centre, Centreville, Chatom, Chelsea, Cherokee, Chickasaw, Childersburg, Citronelle, Clanton, Clay, Clayhatchee, Clayton, Cleveland, Clio, Coaling, Coffee Springs, Coffeetown, Coker, Collinsville, Colony, Columbia, Columbiana, Coosada, Cordova, Cottonwood, County Line, Courtland, Cowarts, Creola, Crossville, Cuba, Cullman, Dadeville, Daleville, Daphne, Dauphin Island, Daviston, Dayton, Deatsville, Decatur, Demopolis, Detroit, Dodge City, Dora, Dothan, Double Springs, Douglas, Dozier, Dutton, East Brewton, Eclectic, Edwardsville, Elba, Elberta, Eldridge, Elkmont, Elmore, Emelle, Enterprise, Ethelsville, Eufaula, Eutaw, Eva, Evergreen, Excel, Fairfield, Fairhope, Fairview, Falkville, Faunsdale, Fayette, Five Points, Flomaton, Florida, Florence, Foley, Forkland, Fort Deposit, Fort Payne, Frisco City, Fulton, Fultondale, Fyffe, Gadsden, Gainesville, Gantt, Garden City, Gardendale, Gaylesville, Geiger, Geneva, Georgiana, Geraldine, Gilbertown, Glen Allen, Glencoe, Glenwood, Goldville, Good Hope, Gu-Win Goodwater, Gordo, Gordon, Gordonville, Goshen, Grant, Graysville, Greensboro, Greenville, Grove Hill, Guin, Gulf Shores, Guntersville, Gurley, Haleburg, Hackleburg, Haleyville, Hamilton, Hammondville, Hanceville, Harpersville, Hartford, Hartselle, Hayden, Hayneville, Headland, Heflin, Helena, Henagar, Highland Lake, Hillsboro, Hobson City, Hodges, Hokes Bluff, Holly Pond, Hollywood, Homewood, Hoover, Hueytown, Huntsville, Hurtsboro, HyTop, Ider, Indian Springs, Irondale, Jackson, Jackson's Gap, Jacksonville, Jasper, Jemison, Kansas, Kellyton, Kennedy, Killen, Kimberly, Kinsey, Kinston, Lafayette, Lake-view, Lanett, Langston, Leeds, Leesburg, Leighton, Lester, Level Plains, Lexington, Lincoln, Linden, Lineville, Lipscomb, Lisman, Littleville, Livingston, Loachapoka, Lockhart, Locust Fork, Louisville, Lowndesboro, Loxley, Luverne, Lynn, McIntosh, McKenzie, Madison, Madrid, Malvern, Maplesville, Margaret, Marion, Maytown, Mentone, Midfield, Midland City, Midway, Millbrook, Millport, Millry, Mobile, Monroeville, Montevallo, Montgomery, Moody, Mooresville, Morris, Mosses, Moulton, Moundville, Mount Vernon, Mountain Brook, Mountainboro, Mulga, Munford, Muscle Shoals, Myrtlewood, Napier Field, Natural Bridge, Nauvoo, Nectar, Needham, Newbern, New Brockton, New Hope, New Site, Newton, Newville, North Courtland, North Johns, Northport, Notasulga, Oak Grove, Oak Hill, Oakman, Odenville, Ohatchee, Oneonta, Onycha, Opelika, Opp, Orange Beach, Orrville, Owens Cross Roads, Oxford, Ozark, Paint Rock, Parrish, Pelham, Pell City, Pennington, Petrey, Phenix City, Phil Campbell, Pickensville, Piedmont, Pike Road, Pinckard, Pine Apple, Pine Hill, Pine Ridge, Pisgah, Pleasant Grove, Pleasant Groves, Pollard, Powell, Prattville, Priceville, Prichard, Providence, Ragland, Rainbow City, Rainsville, Ranburne, Red Bay, Red Level, Reece City, Reform, Rehobeth, Repton, Ridgeville, Riverside, Riverview, Roanoke, Robertsedale, Rockford, Rogersville, Rosa, Russellville, Rutledge, Saint Florian, Samson, Sand Rock, Sanford, Saraland, Sardis City, Satsuma, Scottsboro, Section, Selma, Sheffield, Shorter, Silas, Silverhill, Sipsey, Skyline, Slocomb, Smiths Station, Snead, Somerville, South Vinemont, Southside, Spanish Fort, Springville, Steele, Stevenson, Sulligent, Sumiton, Summerdale, Susan Moore, Sweet Water, Sylacauga, Sylvan Springs, Sylvania, Talladega, Tallassee, Tarrant, Taylor, Thomaston, Thomasville, Thorsby, Town Creek, Toxey, Trafford, Triana, Trinity, Troy, Trussville, Tuscaloosa, Tusculum, Tuskegee, Twin, Union, Union Grove, Union Springs, Uniontown, Valley, Valley Grande, Valley Head, Vance, Vernon, Vestavia Hills, Vina, Vincent, Vredenburgh, Wadley, Waldo, Walnut Grove, Warrior, Waterloo, Waverly, Weaver, Webb, Wedowee, West Blocton, West Jefferson, West Point, Westover, Wetumpka, Wilsonville, Wilton, Winfield, Woodland, Woodstock, Woodville, Yellow Bluff, York.

Published monthly by The Alabama League of Municipalities, 535 Adams Avenue, Montgomery, Alabama 36104, telephone (334) 262-2566. Web address: www.alalm.org. Single copies, \$2.00. By subscription, \$24.00 per year. Advertising rates and circulation statement available at www.alalm.org or by calling the above number. Statements or expressions of opinions appearing within this publication are those of the authors and not necessarily those of the Alabama League of Municipalities. Publication of any advertisement should not be considered an endorsement of the product or service involved. Material from this publication may not be reprinted without permission.

## Contents

|   |    |
|---|----|
| <i>Perspectives</i> .....                             | 4  |
| Six Municipalities REceive Community Policing Grants  |    |
| <i>Job Listing</i> .....                              | 4  |
| <i>President's Report</i> .....                       | 5  |
| 2003 CMO Graduation Ceremony Held June 26th           |    |
| <i>Municipal Overview</i> .....                       | 7  |
| 2003 First Special Session Final Report               |    |
| <i>Final Report on the 2003 Regular Session</i> ..... | 10 |
| <i>Environmental Outlook</i> .....                    | 13 |
| Anti-ozone Device Unveiled                            |    |
| <i>The Legal Viewpoint</i> .....                      | 15 |
| Sunshine Law: Auburn University v. The Advertiser     |    |
| <i>Legal Notes</i> .....                              | 21 |
| <i>Municipal Trouble Shooter</i> .....                | 23 |
| <i>Speaking of Retirement</i> .....                   | 30 |

## Six Municipalities Receive Community Policing Grants

The Associated Press

MONTGOMERY, Ala. (AP) — This past June, six Alabama municipalities received community policing grants totaling \$2.1 million from the U.S. Department of Justice.

The grants include \$750,000 for the Jefferson County Sheriff's Department to hire 10 officers and \$450,000 each for the city of Tuscaloosa and the Madison Police Department to hire six officers each.

The grants are part of \$78.1 million to hire 1004 law enforcement officers in 181 cities and counties around the country.

Also receiving grants were the Marengo County Sheriff's Department (\$297,288 for four officers), the Lake View Police Department (\$114,040 for two officers) and the Town of Coosada (\$75,000 for one officer). ■

## Job Listing

### RECREATION SUPERINTENDENT City of Saraland

The City of Saraland, a progressive City with a population of approximately 13,500, is hiring for the position of Recreation Superintendent. The applicant must hold a minimum of a bachelor's degree from a recognized college or university in recreation administration, and a minimum of three years administrative experience in organized recreational activities; or a combination of education and experience equivalent to these requirements. An employee in this position must be a visionary, capable of developing feasible, long range plans to meet the City's anticipated growth and possess a sound knowledge of facilities and equipment needed in a broad recreation program, thorough knowledge of a wide variety of recreation activities, including pool maintenance and operation, thorough knowledge of construction, repair and maintenance requirements of recreation areas, facilities and equipment, programming for Senior Center, ability to develop and administer a recreation program suited to the needs of the community, ability to plan, organize, coordinate and direct activities and personnel of a recreation program; ability to establish and maintain effective working relationships with employees, City officials, civic organizations and the general public. The person in this position is responsible for developing and administering a comprehensive community recreation program, including the effective use and proper maintenance of a wide variety of recreational areas, facilities and equipment. Upon hiring, the following benefits can be expected: 1. Health, Dental, Life and Vision Insurance Plans; 2. Alabama State Retirement Plan; 3. Paid Sick Leave, Vacation and Holidays; 4. Periodic Salary Adjustments. For information about Saraland please visit our website at [www.saraland.org](http://www.saraland.org). The annual starting salary for this position is \$24,132.00 to 37,440.00. To apply, please contact the Mobile County Personnel Board or visit their website at [www.personnelboard.org/jobspecsE.htm](http://www.personnelboard.org/jobspecsE.htm) to obtain a job description and application.

## Morgan Keegan & Company

Financial Advisor • Underwriter  
Municipal Financing

**Morgan Keegan & Company, Inc.**  
**Public Finance Group**

Tom Barnett • Larry Ward  
Frank Kohn • Fred Major

Morgan Keegan Center  
2900 Highway 280, Suite 100  
Birmingham, Alabama 35223

417 20th Street North  
Birmingham, Alabama 35203

800/753-6619 • 205/802-4276

Members New York Stock Exchange, SIPC

## HENDON ENGINEERING ASSOCIATES

CONSULTING ENGINEERS

Quality, Full Service Engineering

Municipal, Civil, Environmental,  
Natural Gas, and Electrical Engineering  
Instrumentation and Controls



1025 MONTGOMERY HIGHWAY  
P. O. BOX 660348  
BIRMINGHAM, ALABAMA 35216

PHONE: (205) 823-7480  
FAX: (205) 823-7483

e-mail: [staff@hendonengineering.com](mailto:staff@hendonengineering.com)



# The President's Report

Dan Williams  
*Mayor of Athens*

## 2003 CMO Graduation Ceremony Held June 26th

On June 26th, the League held commencement ceremonies in Montgomery for its Elected Officials Training Program. These graduation exercises marked the eighth group of officials to receive their basic CMO (Certified Municipal Official) certification and the fifth 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 on-going project of the Alabama League of Municipalities 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 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.

Subjects that have been taught in these sessions include council meeting procedure, rules of parliamentary procedure, the Alabama Sunshine Law, 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 have received the CMO designation and desire 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 that the new requirement would strengthen the CMO Program.

As of January 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 72 municipal officials successfully completed the requirements to receive their CMO certification. Thirty-six officials received their Advanced CMO certification.

Representative Bill Dukes of Decatur addressed the 2003 graduates of the Elected Officials Training Program during graduation exercises held in Montgomery.

Representative Dukes was a key player in municipal government for 27 years – 18 of which he served as Mayor of Decatur. A Past President of the League, Representative Dukes was elected to the Alabama Legislature in 1994 and currently serves as Chair of the House Local Government Committee. Following his comments, Representative Dukes handed out plaques to those graduates who were able to attend the commencement ceremonies. The 2003 graduating class of Certified Municipal Officials and Advanced Certified Municipal Officials is listed on the next page. ■



Rep. Bill Dukes addresses graduates at the CMO ceremony.

# Congratulations to the 2003 Advanced and Basic CMO Graduates!

## ADVANCED CERTIFIED MUNICIPAL OFFICIALS

- Mayor James Moore, Adamsville
- Council Member Edward Scott, Adamsville
- Mayor Don F. McClellan, Alexander City
- Council Member Cora L. Smith, Brighton
- Mayor Ben W. Smith, Butler
- Council Member Henry Wright, Centre
- Council Member Tish S. Stallings, Centreville
- Mayor Billy J. Meeks, Childersburg
- Mayor Rannel C. Presnell, Citronelle
- Council Member Doris J. Box, Collinsville
- Council Member Thomas O. Moore, Demopolis
- Mayor Gary L. Livingston, Eva
- Council Member Robert R. Wilson, Falkville
- Council Member Jo Ann S. Thomas, Florence
- Council Member Judith A. Kaiser, Gulf Shores
- Council Member Johnnie E. Veal, Haleyville
- Council Member Mary E. Williams, Headland
- Mayor Don R. Goetz, Jasper
- Council Member Charles R. Lane, Lincoln
- Council Member Billy J. Pearson, Lincoln
- Council Member Iris Gay Ethridge, Orange Beach
- Mayor Freida R. Eubank, Phil Campbell
- Mayor Fred McNab, Pinckard
- Council Member Frederick J. Macready, Prattville
- Council Member Tammi T. Holley, Roanoke
- Mayor Charles H. Murphy, Robertsdale
- Council Member Joseph M. Kitchens, Robertsdale
- Mayor Thomas K. Williams, Saraland
- Council Member Frank L. Stevens, Sheffield
- Council Member Wanda W. Finch, Spanish Fort
- Council Member Hal Miller, Tallassee
- Council Member Curtis A. Reynolds, Tarrant
- Council Member Alberta S. Dixon, Thomasville
- Council Member Joseph E. Powell, Tuscaloosa
- Council Member Rodney L. Mitchum, Valley
- Council Member Thomas Ray Edwards, Valley

## BASIC CERTIFIED MUNICIPAL OFFICIALS

- Council Member John L. Rogers, Adamsville
- Mayor William R. McKinzey, Aliceville
- Council Member Jerry B. Andrews, Andalusia
- Council Member Michael L. Jones, Jr., Andalusia
- Council Member Webb Nall, Atmore
- Council Member Louise Alexander, Bessemer
- Mayor Marlin H. Murphree, Blountsville
- Council Member Cary Barton, Brewton
- Council Member Dennis R. Dunaway, Brewton
- Council Member Bobby R. Seabolt, Bridgeport
- Mayor Eddie Cooper, Brighton
- Council Member Dorothy Henderson, Brighton
- Council Member Angelo D. Hinkle, Brighton
- Council Member Keith Cox, Carrollton
- Council Member Fred M. Waltman, Citronelle
- Council Member Mary M. Smith, Clanton

- Council Member Clarence Logston, Courtland
- Council Member Scott Moore, Daleville
- Council Member Robert D. Slagle, Daleville
- Mayor Paula Phillips, Douglas
- Mayor Thomas F. Coram, Eclectic
- Mayor James E. Grimes, Elba
- Mayor Ray Nelson, Fayette
- Council Member Roger W. Adkinson, Flomaton
- Council Member Clemente R. Brooks, Flomaton
- Mayor Harden Davis, Garden City
- Mayor Wayne Tuggle, Graysville
- Council Member Johnny M. Davis, Greensboro
- Council Member Gwyneth J. Jones, Guin
- Council Member Carolyn M. Doughty, Gulf Shores
- Council Member Joann H. Walls, Hanceville
- Council Member Willie J. Elston, Hobson City
- Council Member Bobby G. Forbes, Hobson City
- Council Member Georgia Gray Hampton, Hueytown
- Council Member Robert L. Jones, Jackson
- Council Member Barbara B. Austin, Killen
- Council Member Hilyard C. Bullard, Lanett
- Council Member Glenda J. Horsley, Locust Fork
- Council Member Charles A. Gilliland, Locust Fork
- Council Member Charlie Johnson, Luverne
- Council Member Buck Y. Williams, Midfield
- Mayor Don P. Parker, Midland City
- Council Member Victor M. Long, Millbrook
- Council Member Bob Rust, Northport
- Council Member Tony A. White, Oak Grove
- Council Member Jimmy G. Large, Oneonta
- Council Member Brett L. Holk, Orange Beach
- Mayor Bobby Hayes, Pelham
- Council Member Mark L. Carden, Phil Campbell
- Council Member Don L. Gentry, Phil Campbell
- Council Member Dale Moody, Phil Campbell
- Mayor Charles L. Fagan, Piedmont
- Council Member John T. Lawrence, Piedmont
- Council Member Bill Baker, Jr., Piedmont
- Council Member Henry T. Perry, Priceville
- Council President Ron Davis, Prichard
- Council Member Paul Hollingsworth, Robertsdale
- Mayor Harold D. Chandler, Rogersville
- Council Member Craig Grissom, Russellville
- Mayor William L. Bush, Satsuma
- Council Member Bill Black, Satsuma
- Mayor Ian T. Sanford, Sheffield
- Council Member James T. Campbell, Jr., Snead
- Mayor Gregory A. Kuhlmann, Spanish Fort
- Council Member Russell L. Chandler, Tallassee
- Council Member Bill Camp, Tarrant
- Council Member Steven A. Mahaffey, Tarrant
- Council Member Beatrice A. Turner, Uniontown
- Council Member James H. McDowell, Valley
- Mayor Keith Mahaffey, Vance
- Mayor D. W. Franklin, Vina
- Council Member Scot Nelson, Winfield



# Municipal Overview

By  
PERRY C. ROQUEMORE, JR.  
*Executive Director*

## 2003 First Special Session Final Report

The First Special Session of 2003 adjourned sine die on Saturday, June 7. The Governor's package of accountability and revenue-raising measures was approved and will be submitted to the state's voters at a special election to be held on September 9. The bills in the package will become law only if approved by the voters at that election. If approved by the voters, it is projected that the package of tax bills will generate approximately \$1.2 billion in new revenue annually for the state and approximately \$54 million in new revenue annually for municipalities. The following is a listing of those bills of interest to municipalities that passed this session.

### **Governor Riley's Tax and Accountability Package**

The following is a brief summary of each of the bills in Governor Riley's package that were enacted during the special session. All of these bills will become law if the constitutional amendment proposed by **HB1** is ratified by the state's voters in a September 9 special election. Check the League web page ([www.alalm.org](http://www.alalm.org)) for updates.

**Alabama Excellence Initiative Fund** (HB1, Act 2003-78). This bill proposes a constitutional amendment to allow the state's voters to ratify the entire package of bills. There will not be a vote on each issue separately. Each voter will cast a single vote to adopt the package in total or to reject the package in total. The bill establishes the Alabama Excellence Fund as a separate fund within the State Treasury and provides that all new tax revenues generated by the tax package will be deposited in the Alabama Excellence Fund for targeted investment without earmarking.

**Tobacco Tax Increase** (HB2, Act 2003-109). This bill increases the state tax on tobacco products. The state tax rate on packs of cigarettes increases from \$0.165 to \$0.31 per pack. The bill prohibits any increase in local tobacco taxes after the September effective date of the bill.

**Property Tax Increase** (HB3, Act 2003-119). This bill provides a number of changes for state and local property

taxes. The bill assesses all property at 100% of market value or current use value for the State portion of the tax; reduces the tax rate on the State portion of the tax from 6.5 mills to 3.5 mills; increases the homestead exemption from \$40,000 to \$50,000 of appraised value; and exempts Alabamians over age 65 from all state taxes on their homestead. The bill increases current use values by 22%, phased in over four years. An acre of farm land will have a maximum value of \$650, and an acre of timber land will have a maximum value of \$715. The maximum current use values per acre for farm land exceed \$1,000 in all of our neighboring states. The legislation places a cap of 2,000 acres that can be classified as current use property. All land in excess of 2,000 acres will be appraised at fair market value. According to information provided by the Governor's office, over 95% of landowners have less than 2,000 acres and will be protected under current use. Georgia has a cap of 2,000 acres and Tennessee has a cap of 1,500 acres. The bill provides a new exemption for a farmstead of 200 acres or \$150,000 of improvements.

Local county and municipal property taxes are affected due to the increase in the business class assessment ratio from 20% to 22%. The bill caps utility property at current payments until assessment at 22% would be greater. The changes are phased in over a 4-year period.

**Utility Gross Receipts Tax** (HB4, Act 2003-108). The 4% Utility Gross Receipts Tax paid by utility customers was increased from 4% to 5.75%. The 2.2% utility license tax paid by non-municipal utilities was repealed. Currently 5% of the money paid by TVA to the state in-lieu-of-taxes goes to dry non-TVA-served counties and the municipalities therein. This bill removes that money and gives it to TVA-served counties and municipalities. The dry non-TVA-served counties and municipalities will now receive their revenues from the state ad valorem tax.

**Mortgage and Deed Recording Tax** (HB7, Act 2003-107). This bill increases the state mortgage and deed recording tax. It increases mortgage fees from 1 mill to 2 mills and increases deed recording fees from 1.5 mills to 3 mills.

**Health Insurance Benefits** (HB9, Act 2003-117). This bill amends laws relating to health insurance benefits for employees and retirees of the state, public education and state colleges and universities. The bill requires that State employees, public school teachers and higher education employees share in the cost of health insurance premiums. It requires that such employees meet the regional average for contributions. The bill provides that the changes be phased-in over time. It allows discounted rates for employees living below a family income equal to twice the federal

*continued page 9*

poverty level and reduces State contributions for employees who retire with less than 25 years of service.

**Sales and Use Tax** (HB11, Act 2003-118). This bill amends the State sales and use tax laws to increase the State sales tax rate on cars from 2% to 2.5%; increase the lease tax rate on cars from 1.5% to 3%; include repair and installation services in the sales tax base; simplify recordkeeping on installations – since the service provider is already collecting sales tax on the property which is installed; and add lubricating oil to the sales tax base. Municipal sales taxes will parallel these changes.

**Insurance Premium Tax** (HB13, Act 2003-101). This bill proposes to level the playing field for insurance companies, particularly in the property and casualty sectors. It eliminates the examination expense credit; reduces the business privilege tax credit from 60% to 30% of taxes paid; and limits the home office and real estate investment credits, thereby reducing the competitive disadvantage that most companies face.

**Business Privilege Tax** (HB14, Act 2003-102). This bill clarifies the definition of corporate income tax and alters the maximum and minimum tax paid by corporations. It eliminates the federal income tax deduction and sets the tax rate at 6%, about average compared to other Southeastern states.

**Individual Income Tax** (HB19, Act 2003-116). This bill raises the filing threshold for a family of four from \$4,600 to \$20,000 – \$17,000 level next year, phased in to reach \$20,000 in 3 years. It indexes exemption and standard deduction levels to the federal levels. The bill eliminates the federal income tax deduction and allows deductions for mortgage interest, charitable contributions and medical expenses. Income tax returns will be simplified by using federal basis for adjusted gross income. All income from defined benefit pension plans will continue to be exempt and the first \$40,000 of pension income from defined contribution plans will be exempt for the first time. The bill provides for a 5% rate on all income below \$75,000 for individuals (\$83,000 after exemptions) and \$150,000 for married couples (\$170,000 after exemptions). A 6% rate will be applied to income above \$75,000 and \$150,000.

**Financial Institutions Excise Tax** (HB25, Act 2003-115). This bill, which applies to financial institutions, eliminates the credit for sales taxes paid; eliminates the federal income tax deduction; sets a tax rate of 6%; and sets a maximum Business Privilege Tax of \$15,000, like all other corporations. The bill eliminates the municipal share of the revenues derived from the Financial Institutions Excise Tax. Lost municipal revenues are replaced by increased receipts from other parts of the tax package.

**College Tuition Assistance** (HB40, Act 2003-110). This bill would provide college tuition assistance to those

state students who score a certain score on the ACT test and maintain a certain grade point average. It provides merit-based scholarships to Alabama students and applies to attendance at any public college, university, junior college or technical college in the State of Alabama. Eligibility is based on residency and academic achievement.

**Foundation Program – Teacher Units** (SB1, Act 2003-104). This bill will establish the Foundation Program funding divisors for the state allocation of teacher units and expresses intent that adequate instructional support and classified staff be provided for the public schools, the Department of Youth Services School District and the Alabama Institute for Deaf and Blind for the fiscal year ending September 30, 2004. The bill also expresses intent that the Education Trust Fund Appropriations Act be enacted no later than September 30, 2003.

**Teacher Tenure Law** (SB2, Act 2003-103). This bill reforms tenure for teachers and school employees and eliminates tenure for instructional supervisors.

**Fair Dismissal Act** (SB3, Act 2003-106). This bill provides for binding arbitration for teachers and public school employees who have tenure. It shortens the hearing process. Under current law for terminations of teachers, there is a long hearing before the local school board, then an appeal to the tenure commission, then review by circuit and appellate courts. The process would be streamlined to a short hearing before the local school board, then an appeal to a federal arbitrator, then review by appellate courts only in limited circumstances. The bill shifts the financial burden from local school boards to the State and institutes identical procedures for teachers and other public school employees, unlike current law.

**Foundation Program – Minimum School Days & Local Flexibility** (SB4, Act 2003-111). This bill will increase the minimum number of school days to reach the national average of 180 days. It also allows local school systems greater flexibility in the allocation of resources to serve the best interests of the students.

**Teachers in Underserved Areas** (SB7, Act 2003-77). This bill provides for one-time payments to teachers who agree to teach in underserved areas of the State or in subject matter areas which are hard to staff. It also provides scholarships to students who agree to be certified in underserved subject matter, or who agree to teach in underserved areas.

**Administrator Accountability Act** (SB10, Act 2003-112). Requires that assistant principals, financial officers and instructional supervisors hired after July 1, 2004 will be hired under contracts, like all principals hired since July 1, 2000, and allows principals, assistant principals, financial



officers, and instructional supervisors who have tenure to relinquish it voluntarily in return for \$5000.

**Pass-through Appropriations** (SB16, Act 2003-113). This bill prohibits public funds from being passed from an agency at the direction of a legislator for a purpose not specified in the annual budget act. It makes an agency director who participates in a prohibited pass-through appropriation subject to criminal penalty and requires reports to the Governor of any directive by a legislator to make a prohibited pass-through appropriation.

**School Fiscal Management & Responsibility Act** (SB24, Act 2003-114). This bill requires the State Department of Education to monitor the financial performance of school systems, and requires school systems to share financial information with the State Department of Education. It requires training of local superintendents in the subject of finance and requires each local school system to hire a Chief School Financial Officer to monitor receipts and payments and to make certain reports to the local board and to the State Department of Education. The bill provides for the State to purchase new accounting software for local school systems with monitoring by the State Department of Education; requires annual financial audits of all local school systems; and strengthens the financial takeover powers of the State Superintendent of Education.

**Proposed Constitutional Amendments**

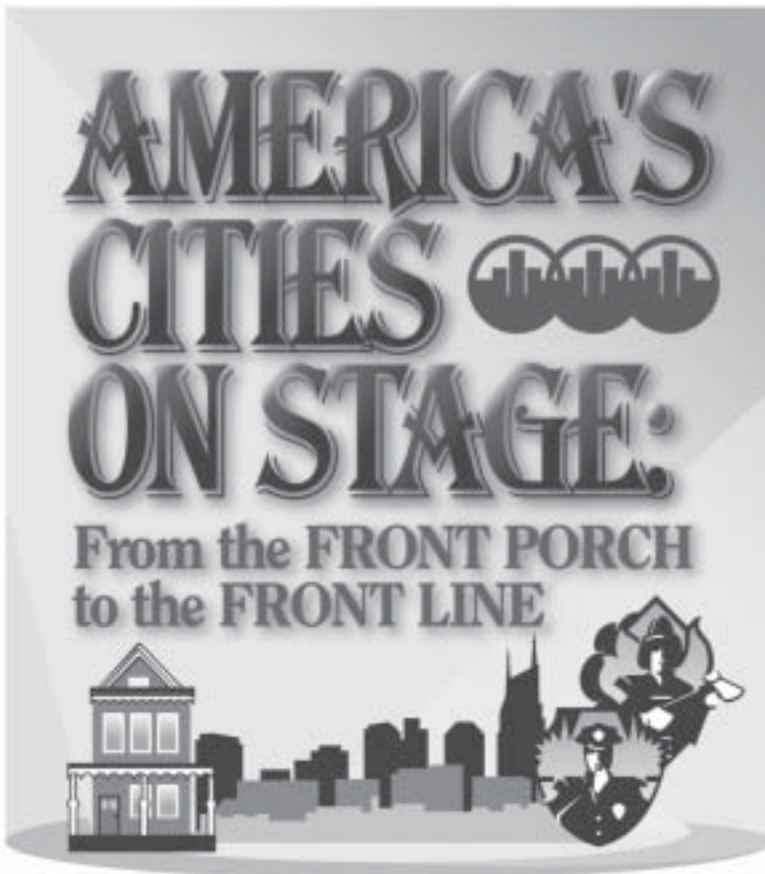
- SB8, Act 2003-77 - 24th Judicial Circuit Court Costs
- HB1, Act 2003-78 - Alabama Excellence Initiative Fund
- HB10, Act 2003-74 - Elected officials retirement in Walker County
- HB26, Act 2003-71 - Walker County – Corridor X Parkway Authority
- HB37, Act 2003-75 - Conecuh County Court Costs
- HB48, Act 2003-76 - Elected officials retirement in Pickens County

**Local Bills**

- SB37, Act 2003-137- Greene County – One-stop tag purchases
- SB38, Act 2003-138 - Greene County – Court Costs
- SB39, Act 2003-194 - Greene County – Distribution of statewide beer tax revenues
- HB41, Act 2003-134 - Barbour County ad valorem tax
- HB42, Act 2003-136 -Barbour County sales and use tax
- HB44, Act 2003-135 - Barbour County tobacco tax
- HB46, Act 2003-132- Pickens County motor vehicle issuance fees

**Annexation Bills**

- HB49, Act 2003-133 - Midway



National League of Cities  
80<sup>th</sup> Annual  
Congress  
of Cities &  
Exposition

Nashville, Tennessee  
December 9-13, 2003

---

---

# Final Report on the 2003 Regular Session

The Alabama Legislature adjourned sine die on Monday, June 16, 2003. During the session, a total of 1322 bills were introduced of which 268 received final passage. By comparison, in 2002, a total of 1289 bills were introduced of which 282 received final passage. In 2001, a total of 1586 bills were introduced and 302 were passed. Many of the bills receiving final passage were appropriation bills or local bills affecting a single county or municipality.

The League commends Lt. Gov. Lucy Baxley, House Speaker Seth Hammett, Senate President Pro Tem Lowell Barron, House Speaker Pro Tem Demetrius Newton and the other House and Senate leaders for their leadership during this session.

## Final Status of the League Legislative Package

The following proposals in the League's 2003 Legislative Package were approved this session:

**MUNICIPAL ELECTION LAW AMENDMENTS** (HB174, Act 2003-400). This League bill would revise municipal election procedures. Among other things, the bill would provide the following: (1) For printing in certain notices of municipal elections the residency requirements for persons running for municipal office; (2) That municipalities using electronic vote counters would be exempt from the requirement that municipalities provide one voting machine or box per ward; (3) For the number of ballot boxes or voting machines required in certain municipal run-off elections; (4) That municipal election officials appointed to serve at a polling place other than their regular polling place would be permitted to vote by absentee ballot; (5) That municipalities may appoint additional election officials to receive, count, and record absentee ballots in municipal elections; (6) That municipalities operating on eastern time may designate that polling places open and close on eastern time; (7) That, in all elections, including municipal elections, poll watchers may not disturb or attempt to influence voters in any way; (8) That an official list of qualified voters be furnished to the absentee election manager at least 35 days before a municipal election; and (9) For the method of petitioning for a recount in municipal elections. The League wishes to thank Rep. Jack Venable for sponsoring this bill in the House and Sen. Bobby Denton for sponsoring the companion bill in the Senate.

**ADEM-FEDERAL CLEAN WATER ACT** (HB434, Act 2003-397). Under existing law, the Alabama Department of Environmental Management may bring enforcement actions for violations of regulations or permits adopted or issued under the Alabama Water Pollution Control Act and

may resolve those actions through an administrative process without filing a lawsuit in state court. This bill would conform the state administrative enforcement process to the federal Clean Water Act; would add requirements for the department to provide the public with notice and an opportunity to comment on a proposed administrative order assessing a civil penalty, to hold a hearing before an order is finalized under certain conditions, and to provide notice of the issuance of a final order; would increase the period for appeal of the order to the Environmental Management Commission, allow any aggrieved party who submitted written comments on a proposed administrative order assessing a civil penalty to obtain a hearing on the order before the commission, and allow persons who participated as parties in the hearing before the commission to seek judicial review of the action of the commission. The League wishes to thank Rep. Jim Carnes for his help in sponsoring this bill for the League.

The League wishes to thank the following persons for sponsoring League bills this session: Representatives. Steve McMillan, Bill Dukes, Ron Johnson, Jack Venable, Victor Gaston, Steve Clouse, Betty Carol Graham, Nelson Starkey, James Thomas, Jim Carnes, and Senators Tommy Ed Roberts, Bobby Denton, Zeb Little, Hank Sanders, Phil Poole, Larry Means, and Hap Myers.

## Status of Dangerous Legislation

A number of bills introduced during the 2003 Regular Session were adverse to the interests of municipal government. The League was successful in amending or defeating these proposals.

## General Bills Passed

**Speed Limits in Construction Zones** (HB47, Act 2003-344). Under existing law, the State Department of Transportation is authorized to set speed limits in construction zones on urban and rural state highways, and fines for speeding in these construction zones are doubled under certain circumstances. This bill would provide the same authority to counties with regard to county roads and highways. This bill would further provide that the provisions of this law will only apply when construction personnel are present as evidenced by appropriate signs with flashing amber lights.

**Polling Hours** (HB59, Act 2003-337). This bill amends Section 17-7-5.1, Code of Alabama 1975, relating to the hours of holding elections, to require each polling place to

*continued page 20*

**N  
A  
F  
E  
C  
O**



**Attention:**  
Mayors, Council Members, Purchasing Agents, City Clerks

# Fire Apparatus, We're Talking Delivery...



...on full-lines of high performance KME trucks. NAFECO stands ready to serve the Alabama League of Municipalities with its 35 years of experience in the industry. Our EVT certified staff provides 24-hour road service. Also your pump, hydraulic tools, and SCBA maintenance needs can be met by our specialized service department.

NAFECO is prepared to handle municipalities' Fire, Police and EMS equipment needs including: turnout gear, uniforms, breathing apparatus, and thermal imaging cameras.



1515 West Moulton Street, Decatur AL 35601  
800-628-6233 • 256-353-7100 • Fax 256-355-0852 • [www.nafeco.com](http://www.nafeco.com)



AlaTax Local Government Solutions, known and trusted throughout Alabama for state-of-the-art tax collection, processing and auditing services, continues to strengthen our commitment to Alabama local government.

We are partnering with other leading companies dedicated to your efficiency to offer products and services designed for your success.

Contact the AlaTax Solutions Team at 1-800-556-7274 ext. 411.

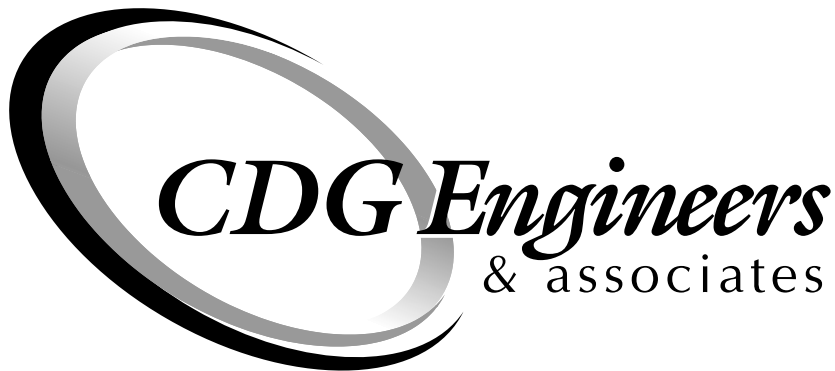
---

**AlaTax Local Government Solutions**

3001 Second Avenue South • Birmingham, Alabama 35233

Phone 205-324-0088 • Fax 205-324-1538

[www.alatax.com](http://www.alatax.com)



Utilities  
Water  
Wastewater

Roads and Drainage  
Natural Gas Systems  
Environmental Compliance

P.O. Box 278  
1840 US Hwy 29 N  
Andalusia, Alabama 36420  
(334) 222-9431

P.O. Box 2079  
200 West Alabama Avenue  
Albertville, Alabama 35950  
(256) 891-3458



# ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran  
Director, State and Federal Relations

## Anti-ozone Device Unveiled

Alabama Power's pollution scrubber set for coal plant displayed the final step in Birmingham's ozone reduction plan last May, with the presentation of its \$170 million equipment to wash pollution out of the air before it leaves the stacks of its largest plant. The new system will allow Alabama Power to reduce nitrogen oxide pollution by 80 percent from two of the boilers at the Miller Steam Plant. The 14-story high pollution reduction equipment attached to the Miller Steam Plant is the last step in the state's three-year ozone reduction plan, which could help Jefferson and Shelby counties begin to meet federal ozone standards this summer for the first time in 25 years.

Ozone is a corrosive chemical that forms when nitrogen oxide and volatile organic compounds meet in clear, hot skies. Volatile organic compounds cannot be eliminated in the fertile South because most of them are created by trees and other plants. This has led the Alabama Department of Environmental Management to focus on the old, coal-burning power plants operated by Alabama Power.

The "selective catalytic reduction" system sprays the pollution from the boilers with ammonia. As the polluted air passes through the system, the chemicals are reduced to harmless water and nitrogen vapors. A similar system has been attached to one of the boilers at Alabama Power's Walker County plant. The systems at both plants will be used during the summer ozone season and turned off in the winter to conserve power.

Despite a hot, bright start to the season that threatened as early as April to bring high ozone levels, state meteorologists expect this summer to be average for ozone. If it is, they hope this is the year the area could attain federal standards for the first time since 1978.

Ozone can cause lung damage, respiratory problems and even death. It is linked to asthma attacks and the onset

of childhood asthma. A recent analysis by the American Lung Association ranked Birmingham No. 18 in the nation for its ozone problem, slightly behind some of the megalopolises of the northeast.

Scientists say that's because Birmingham has several problems in combination. It is ringed by coal-burning power plants that pre-date the modern U.S. Clean Air Act as well as mountains that trap the pollution. The weather is hot and sunny on long summer days, allowing ozone to build all day until it reaches illegal levels.

### **EPA: Few Fined for Polluting Water Agency Says It Must Do Better Job of Monitoring**

About a quarter of the nation's largest industrial plants and water treatment facilities are in serious violation of pollution standards at any one time, yet only a fraction of them face formal enforcement actions, according to an Environmental Protection Agency internal study.

The study is the broadest effort to date to document the failure of the EPA and the states to fully enforce the Clean Water Act, enacted 30 years ago to clean up the nation's rivers and streams. The study, completed in February by the EPA's Office of Enforcement and Compliance, found that half the serious offenders exceeded pollution limits for toxic substances by more than 100 percent.

The study showed that some companies and municipalities have illegally discharged toxic chemicals or biological waste into waterways for years without government sanctions. Such discharges can cripple fisheries, taint fishing holes and increase the risks of illnesses ranging from skin rash to lead and mercury poisoning.

EPA officials acknowledge they are trying to be more aggressive in monitoring state enforcement of the Clean Water Act by creating 10 regional "watch lists" of the most flagrant violations. Obviously, what EPA wants to do is make

*continued next page*

sure where there is a significant noncompliance that we understand what the cause is and, if enforcement is appropriate, that someone takes action

Environmental watchdog groups have highlighted EPA shortcomings before, but the February report was the first time the agency used its own information to build a comprehensive critique of enforcement procedures. The study was not officially released, but a source provided a copy to *The Washington Post*.

The U.S. Public Interest Research Group (PIRG) charged last August that a combination of lax enforcement of clean water laws by the EPA and by state inspectors and lenient courts has led to persistently high levels of illegal dumping of waste and toxic chemicals. One EPA source said “it’s easier” to settle court cases for a few thousand dollars than to seek millions of dollars in penalties that could require substantial time and money to pursue in the courts.

Fourteen states – Virginia, Connecticut, Rhode Island, Vermont, Oklahoma, Kansas, Nebraska, Utah, Texas, Ohio, Indiana, Tennessee, Louisiana and Michigan – had rates of “significant noncompliance” with discharge requirements above the national average.

Mid-level career officials in EPA’s compliance office undertook the study last year as a first effort to use the agency’s data to construct a comprehensive “performance-based” assessment of compliance under the Clean Water Act. The study focused on compliance by what the law describes as “major facilities.” They comprise about 6,600 industrial installations and wastewater treatment plants whose large discharge requires them to monitor and report monthly on waste water “toxics,” such as lead, selenium and mercury, and “conventionals,” which include fecal matter, silt and other biosolids.

The EPA inspector general recently criticized the computer system used for gathering water quality data. But knowledgeable agency sources said the Clean Water Act compliance statistics, gathered by individual states from plants’ and utilities’ mandatory monthly reports, were reliable.

The major exception is California, which has largely ignored EPA filing requirements for 20 years, Suarez said. California submits only 40 percent to 50 percent of the required information, and “it’s got to stop,” he said. Noncompliance by the nation’s most populous state leaves a gaping hole in the EPA’s monitoring abilities.

Stan Martinson, water quality chief for the California Water Resources Control Board, agreed that “we’re lagging” in providing compliance information to the EPA, but he blamed California’s outdated paper reporting system. California has asked the EPA for \$1 million to complete an electronic transition.

The 50-page February report emphasized the years 1999 to 2001. It said, however, that its core finding — that about 25 percent of major facilities were in “significant noncompliance” with pollution limits at any one time — continued a nearly decade-long trend.

The Clean Water Act defines significant noncompliance as toxic discharges of 20 percent or more above permitted levels for at least two months out of the previous six months, or conventional discharges of 40 percent or more above permitted levels for the same time period.

The study found that 50 percent of all non-compliers in 2001 were at least 100 percent over the limit for toxics, and 13 percent were at least 1,000 percent over. Facilities can also be in significant noncompliance by not filing required reports.

Despite the high number of offenses, the report said the EPA took formal action against no more than 15 percent of the violators during 1999-2001. Fewer than half ended up paying fines — averaging between \$4,996 and \$6,455. The report mentioned no installations by name, but The Post contacted several non-compliers by using the agency’s public databases.

Assessing fines, however, does not necessarily resolve problems or get rid of pollutants. In February 2002, a federal court ordered Allegheny Ludlum Steel Corp. to pay \$8.2 million for repeated violations of toxic metal pollution at steel mills outside Pittsburgh. The company has appealed the fine and the EPA continues to list the company as a serious offender.

And in Augusta, Ga., state authorities have fined the Butler Creek Water Pollution Control Plant at least 28 times for ammonia discharges since 2001, collecting \$229,000 while the utility finishes a \$12 million upgrade.

## **GARVER ENGINEERS**

Since 1919

**Municipal • Commercial • Government**

- Civil Engineering Design, Planning, and Land Surveying
- Transportation Projects: Airports, Roads, Bridges
- Water and Wastewater Systems; Environmental Engineering
- Water Resources, Hydrology & Hydrogeology
- Environmental Assessments and Studies
- Grant Writing Assistance

**256-534-5512** [www.garverengineers.com](http://www.garverengineers.com)

218 Holmes Ave. NE, Huntsville, AL 35801

[jdmccarley@garverengineers.com](mailto:jdmccarley@garverengineers.com)



By Ken Smith  
Deputy Director/Chief Counsel

# THE LEGAL VIEWPOINT

## Sunshine Law

### *Auburn University v. The Advertiser*

The Alabama Supreme Court has released a significant case concerning the Alabama Sunshine Law. This case, *Auburn University v. The Advertiser*, \_\_\_ So. 2d \_\_\_, 2003 WL 21205832 (2003), contains a number of rulings of interest to municipal councils. Among these rulings are:

- Meetings of less than a quorum of the membership are exempt from the requirements of the Sunshine Law, since business cannot be conducted. This includes committee meetings composed of less than a quorum, if the committee does not have authority to act on behalf of the council.

- Entities subject to the Sunshine Law may meet in executive session with their attorneys “to discuss the legal ramifications of ... not only pending litigation, but also controversies not yet being litigated but imminently likely to be litigated, or imminently likely to be litigated if the board pursues a proposed course.”

- An entity subject to the Sunshine Law can meet in executive session to discuss awarding an individual an honorary degree, or whether to name a structure after someone.

- The penalty for violating the Sunshine Law is both civil and criminal in nature, and a two-year statute of limitations applies to civil actions to enjoin violations.

This article discusses this important court decision in depth, and provides an analysis for how municipalities and other public entities can comply with its provisions.

#### Facts

The Auburn University Board of Trustees consisted of 12 members.<sup>1</sup> Six members constituted a quorum to conduct business. The Board created various standing committees composed of five trustees, with three trustees constituting a quorum of these committees. Most of these committees had no power to conduct business on behalf of the Board.

The committees did not provide public notice of their scheduled meetings. Additionally, fewer than a quorum of trustees met on occasion to discuss Auburn University business.

Auburn University and trustees on the Board were sued in a declaratory judgment action by a group of newspapers that sought to enjoin certain activities of the Board. The Board admitted to 16 violations of the Sunshine Law, but argued that the Sunshine Law did not apply to any gathering attended by less than a quorum of trustees, even if official business was discussed. They also admitted that they maintained a policy of meeting in executive session to discuss awarding honorary degrees or naming buildings after individuals, but contended that this did not violate the Sunshine Law. Further, the Board argued that its policy of meeting with its attorney to discuss matters protected by attorney-client privilege regardless of whether litigation was pending complied with requirements of the Sunshine Law.

#### Statute of Limitations

The Court first disposed of the statute of limitations question. This was an important issue because the action in this case was civil in nature (seeking to enjoin the Board from certain activities), not criminal. The Board argued that despite this fact, the criminal one-year statute applicable to misdemeanors should apply. See, Section 15-3-2, Code of Alabama, 1975. This would have barred some of the newspapers’ claims. The newspapers, though, contended that either the ten-year limitation in Section 6-2-33(3) applicable to actions for malfeasance or misfeasance in office or the two-year catch-all limitation in Section 6-2-38(1) applied.

The Court agreed with the newspapers on this point.

*continued next page*

First, the Court noted, this particular action is civil, so a criminal statute of limitations like that for misdemeanors was inappropriate. On the other hand, the ten-year limitations statute could not be used because the action was not brought on behalf of the State of Alabama or a political subdivision of the state. Thus, the Court concluded, the two-year residual provision in Section 6-2-38(1) should control civil actions to enforce the Sunshine Law.

### **Quorum Issues**

The Court then turned to the question of whether the Sunshine Law applies to meetings of less than a quorum. In *Penton v. Brown-Crummer Inv. Co.*, 222 Ala. 155, 131 So. 14 (1930), the Court noted that:

The attendance of a quorum is a condition precedent to everything. Until then there is an absolute incapacity to consider or act in any way upon any matter ... Less than a quorum are without power to act or bind anybody in any manner.

Because of this, public entities like the Auburn Board can only act when there is a quorum, and “fewer than a quorum of the Board meeting together do not constitute the Board acting ‘as a deliberative body to set policy regarding’ Auburn University. Thus, the Sunshine Law does not apply to a meeting of fewer trustees than a quorum.”

Regarding the standing committees, only certain committees were authorized to take action on behalf of the Board. Other committees, in the Court’s opinion, did not meet as deliberative bodies to set policy. Because these committees were composed of less than a quorum of the board itself, which was necessary to conduct Board business, these committee meetings were not subject to the Sunshine Law. Similarly, ad hoc meetings of Board members held outside the formal committee structure, even to discuss Board business, were not meetings under the Sunshine Law. As for the Boards which were authorized to conduct business on behalf of the Board, though, the Court held that if a quorum of these committees is present, even on a committee composed of less than a quorum of the total Board, the Sunshine Law applies.

This ruling is particularly significant for municipalities and other public entities which appoint committees to consider items in detail and report their findings back to the full council. In the past, these type meetings have generally been considered subject to the Sunshine Law. See, Attorney General’s Opinions No. 91-00356 and 92-00267. Although the League still recommends providing public notice of these meetings and holding them in public, under the ruling in this case, it now appears that committees composed of less than a quorum of councilmembers (note that the mayor would have to be included in this number in municipalities with populations under 12, 000) that do not have the power to

act on behalf of the municipality, do not have to comply with the Sunshine Law.

But what does this mean? The Sunshine Law, found in Section 13A-14-2 of the Code, requires certain entities to meet in public, unless the good name and character of an individual is being discussed, or if the entity was meeting with its attorney regarding pending litigation. It has also been held to require these covered entities to provide notice of their meetings to the public. *Slawson v. Alabama Forestry Commission*, 631 So.2d 953 (Ala. 1994). If the Sunshine Law doesn’t apply, then meetings of these bodies do not have to take place in public, nor does notice of these meetings have to be given to the public, regardless of the topics that are being discussed.

Perhaps one of the biggest benefits of this holding is that it helps answer some of the stickier questions that the language of the Sunshine Law left unanswered. What is a meeting? What if I meet another councilmember on the street and we discuss an issue we expect to come before the council? Another councilmember and I attend the same church and sometimes can’t help mentioning city business to each other – have we violated the Sunshine Law? Do I have to provide public notice of committee meetings? Now, thanks to this decision, we can provide answers to these and other questions.

In order to be a meeting under the Sunshine Law, a quorum must be present or the entity must have authority to take action on behalf of the full entity. Otherwise, it is not a meeting under the definition established by the Court. Chance meetings of less than a quorum would not violate the Sunshine Law, and even attending church or other events with other councilmembers (again, assuming there is less than a quorum present) doesn’t violate the Sunshine Law. And only committee meetings composed of a quorum of the council or of committees authorized to conduct business on behalf of the council must provide notice and conduct business in public.

### **Attorney-Client Privilege**

In *Dunn v. Alabama State University*, 628 So.2d 519 (Ala. 1993), the Court, quoting with approval from Tennessee appellate decisions, concluded that attorney-client privilege required the recognition of a judicially-created exception to the Sunshine Law in order for public clients to obtain advice from their attorneys. The Court noted that the privilege of confidentiality is one of the cornerstones of the attorney/client relationship. Clients come to attorneys to receive guidance so that they may properly exercise their rights without violating the law. Confidentiality encourages clients to fully divulge all relevant facts to the attorney.

The Court, though, refused to allow executive sessions with attorneys for all purposes, stating that such a rule would



lead to abuses. This fear resulted in the Court approving only limited private meetings with attorneys – for the purpose of discussing pending litigation. The Court stated that:

“Clients may provide counsel with facts and information regarding the lawsuit and counsel may advise them about the legal ramifications of those facts and the information given to him. However, once any discussion, whatsoever, begins among the members of the public body regarding what action to take based upon advice from counsel, whether it be settlement or otherwise, such discussion shall be open to the public and failure to do so (violates the Sunshine Law) ... ‘We emphasize that this is a *narrow exception* and applies only to those situations in which the public body is a *named party in the lawsuit.*” (Citation omitted).

In *Auburn University v. Advertiser*, the Court was confronted again with the issue of the extent of the attorney-client privilege under the Sunshine Law. The Board argued that the attorney-client privilege “includes meetings to discuss litigation imminently threatened but not yet filed or pending and includes meetings to obtain legal advice about a proposed specific act and the potential legal consequences of that act,” pointing again to Tennessee appellate decisions supporting their position. The Court examined these decisions and said:

“In [*Van Hooser v. Warren County Bd. of Educ.*, 807 S.W.2d 230 (Tenn.1991)], the Tennessee Supreme Court held that a school board

“had a right to meet with its attorney to discuss [a] pending controversy [not yet before the courts] pertaining to [a teacher]. However, to the extent that the board made decisions or deliberated toward a decision, this was a ‘meeting’ to which the [Tennessee] Open Meetings Act applies. In [*Baltrip v. Norris*, 23 S.W.3d 336 (Tenn.Ct.App.2000)], the Court of Appeals of Tennessee stated: “We must now determine whether the Board violated the [Open Meetings] Act by the mere fact that it met with [its attorney] in private. The Act provides that it is ‘the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.’ In *Smith County Educ. Ass’n v. Anderson*, 676 S.W.2d 328, 335 (Tenn.1984), the Supreme Court held that the Act did not apply to discussion between a school board and its attorney concerning pending litigation. The Court noted that this is a ‘narrow exception’ and would apply ‘only to those situations in which the public body is a named party in the lawsuit.’ Further, the Court warned that ‘once any discussion, whatsoever, begins among the members of the public body regarding what action to take based upon advice from counsel, whether it be

settlement or otherwise, such discussion shall be open to the public and failure to do so shall constitute a clear violation of the Open Meetings Act.’

“The Supreme Court further defined this ‘narrow exception’ in *Van Hooser*. In that case, the school board retired during a meeting to discuss with its attorney the status of a teacher who was accused of paddling students. *The teacher argued that the Act was violated because no charges had been filed against her nor was any litigation pending when the meeting occurred. The Court disagreed, finding that the Act is not violated by a closed meeting when there is ‘a pending controversy that [is] likely to result in litigation between the school district and [the teacher].’ However, the Court found that in this closed meeting the board members had discussed and assented to the proposed conditions by which the teacher would return to work. Because the board had ‘made decisions or deliberated toward a decision’ during the closed meeting, the Court found that the board had violated the Act. “We hold that the Board did not violate the Act in this case when it met with its attorney. When the Board met with its counsel, there was a ‘pending controversy that was likely to result in litigation,’ i.e., a charge of unprofessional conduct had been lodged, and was then pending, against Baltrip. The depositions of the Board members show that during the meeting with [the attorney for the Board ], she advised them of three options in regard to Baltrip: (1) termination; (2) reinstatement; or (3) reinstatement with conditions. Every member of the Board testified by deposition that the meeting was limited to a discussion with [the attorney for the Board] about the Board’s possible legal options and that no deliberation or decision-making occurred. Baltrip has produced no evidence to the contrary. Thus, we affirm the trial court’s determination that the Act was not violated.” (Emphasis added [in *Auburn University v Advertiser*]).*

“We agree with the Tennessee appellate decisions. The attorney-client privilege exception to the Alabama Sunshine Law includes a meeting between a board, body, or commission and its attorney to discuss the legal ramifications of, and legal options for, not only pending litigation but also controversies not yet being litigated but imminently likely to be litigated, or imminently likely to be litigated if the board pursues a proposed course; provided, however, that the discussion at the meeting may not include the deliberations among the members of the board,

*continued page 19*



Where can smaller municipalities  
turn for dependable software solutions?



**LOCAL GOVERNMENT DATA PROCESSING CORPORATION**  
Celebrating 25 Years of Service to Local Governments

CALL TODAY for more information or a FREE demonstration

**1 – 800 – 381 – 4540**

714 Armstrong Lane • Columbia, TN 38401

[www.lgdpc.com](http://www.lgdpc.com)

## SMALL TOWN PRICING

*Affordable pricing on  
Financial and Management Software  
for Small Municipal Governments*

Small Town Pricing was developed with a small town's budget in mind. It offers the best price and best service available on the following software solutions:

- **General Ledger**
- **Purchasing**
- **Payroll**
- **Utility Billing**
- **Court Case Management**
- **Business License & Taxes**

*Individual software packages  
start at \$650 and include  
Software, Installation & Training*

**Contrary to popular belief, your constituents don't always want to see their tax dollars at work.**

**Constituents are fickle.** They want the best public works as long as it doesn't inconvenience them. Which is why the city of Elmhurst voted for Insituform's 30 years of trenchless technology experience to repair its sewer lines. While digging and replacing sewer lines can take weeks, we had service back up and running before residents got home from work the same day. No disruptions. No property restoration. No angry phone calls. And best of all, our speed and experience meant that Elmhurst's entire repair efforts were completed on schedule and within budget. To see how we can save tax dollars and headaches for your city, call us at 800-234-2992 or visit our website at [www.insituform.com](http://www.insituform.com). **Because only our experience shows:**



Copyright 2001  
Insituform Technologies, Inc.



**Insituform  
Technologies, Inc.**

ELMHURST, ILLINOIS

body, or commission toward its decision on what option to choose or course to follow.”

This holding helps meet the needs of municipal officials and their attorneys by expanding the reasons why they can meet together in executive session. Instead of meeting only after a lawsuit has actually been filed, and limiting discussion only to receiving advice, public entities can now meet with attorneys to discuss controversies that are imminently likely to be litigated. While it seems that this clearly includes situations where a claim has been filed against a municipality, since the filing of a timely claim is a necessary precursor to bringing a lawsuit against a municipality, this exception is substantially broader than this. It would apply to any situation where litigation is “imminent” or likely to result from specific council actions.

Of course, the fact that litigation has to be “imminent” limits the grounds for an executive session between the attorney and public client. Additionally, the council cannot deliberate what actions to take pursuant to the attorney’s advice in executive session. A public entity can, though, ask questions concerning these options and discuss them with the attorney, provided that there is no deliberation or decision-making.

While a council cannot use this exception as an excuse to call an executive session for situations where there is little likelihood of litigation, it does appear that the Court is giving attorneys and councils some discretion to determine when litigation is “imminent,” or if the action of the council is likely to result in litigation. The ability of an attorney to provide this advice confidentially, outside the hearing of potential plaintiffs, may help the entity take actions that will avoid litigation. For this reason, it is one of the most significant rulings in this case and provides an important exception to the Sunshine Law.

### **Honorary Degrees and Building Names**

Finally, the Court discussed whether the Board, pursuant to its policy, had the authority to meet in executive session to determine whether to award honorary degrees or to name buildings after individuals. As the Court noted, “In determining whether to award an honorary degree or a building name, the Board must determine whether that individual deserves such an honor and whether the individual, once honored, might embarrass Auburn University.” Making this decision, the Court held, would necessarily involve inquiry into and debate over the individual’s “general reputation” and “personal traits,” as those terms were defined in *Miglionico v. Birmingham News Co.*, 378 So.2d 677 (Ala.1979). Further, the Court noted that unlike the council in *Miglionico*, the Board in this case did not interview the individuals involved. Thus, the Court concluded:

Executive or closed sessions for this purpose allow

candid and robust debate to promote and to protect the legitimate interests of Auburn University without publicizing any character or reputation defect in the individual. Accordingly, we conclude that the Board meeting in executive session to discuss awarding an honorary degree or a building name is within the “character and good name” exception of *Miglionico*. Thus, this policy of the Board does not violate the Sunshine Law.

### **Conclusion**

*Auburn University v. Advertiser* will provide municipal officials and their attorneys significant relief from some of the more difficult aspects of complying with the Sunshine Law. Officials have frequently voiced concern over discussing business during accidental meetings, or even while dining with other officials or at other social events. Municipal attorneys have worried about conflicting dual obligations, often facing either the need to violate the Sunshine Law by meeting in private with public clients, or risking violation of the Standards of Professional Ethics, which require confidentiality when providing legal advice to clients.

This case helps alleviate these concerns. By establishing a quorum requirement, the Alabama Supreme Court makes clear that as long as there are not enough officials at a gathering to constitute a legally-convened meeting for conducting business, there has been no meeting, and thus no violation of the Sunshine Law. And the expansion of the attorney-client privilege exception will give attorneys greater comfort that when providing advice to the public clients in executive session, they are not violating the Sunshine Law.

Like any exception, there is always the potential for abuses and officials must guard against the temptation to exploit the holdings in this case. But these rulings have helped clarify a number of issues surrounding the Sunshine Law and will allow municipal officials more flexibility to discuss issues freely among themselves, while still protecting the public’s access to observe the conduct and actions of their elected and appointed officials during meetings. ■

### **(Footnotes)**

<sup>1</sup> Although not particularly relevant to this article, the Board membership was increased to 14 on February 20, 2001, with eight trustees constituting a quorum.

open at 7:00 A.M. and close at 7:00 P.M. with certain exceptions.

**Recompiled State Constitution** (HB60, Act 2003-312). Directing the Code Commissioner to prepare an official recompilation of the Constitution of Alabama of 1901, and to have the document published; designating such published document as the Official Recompilation of the Constitution of Alabama of 1901, as amended; and providing if such document conflicts with the Constitution of Alabama of 1901, that the Constitution of Alabama of 1901, shall prevail.

**Restoration of Voting Rights** (HB104, POCKET VETO). This bill provides for the restoration of voting rights for certain persons who fulfill the conditions of the sentence or conditions required by the state Board of Pardons and Paroles. It provides for retroactive application and specifically repeals Section 17-3-10 of the Code of Alabama 1975.

**CA – Election Recounts** (HB113, Act 2003-339). This bill provides for an automatic recount of votes in a general election for any public office if a candidate is defeated by a difference of not more than one half of one percent of the total votes cast for the office. It also amends Sections 17-13-6 and 17-16-31, Code of Alabama 1975, to provide further for reporting results of primary and general elections.

**Alabama Scrap Tire Environmental Quality Act** (HB186, Act 2003-332). This bill relates to the regulation of scrap tire disposal and recycling in Alabama. It provides for the Alabama Scrap Tire Environmental Quality Act to comprehensively regulate scrap tire accumulations and provide for cleanup and remediation of all scrap tire accumulations. The bill authorizes the Alabama Department of Environmental Management, the Alabama Department of Economic and Community Affairs, the Alabama Department of Revenue, and the Scrap Tire Commission to administer and enforce the act. It prescribes a scrap tire environmental fee on the sale of replacement tires and create a Scrap Tire Fund to receive the proceeds of the fee for the administration of the act. The bill provides certain administrative powers, rules, and regulations to administer this act. It prohibits certain actions related to scrap tire accumulations and prescribes civil remedies and criminal penalties for violations of this act. The bill supersedes and repeals Sections 22-40-1 to 22-40-11, inclusive, Code of Alabama 1975, providing for the Scrap Tire Study Commission.

**Voter ID** (HB193, Act 2003-381). This bill would require individual voters to present certain identification at the polls. It exempts certain voters voting by absentee ballot pursuant to federal law and provides for challenged or provisional balloting. The bill provides for criminal penalties for certain violations.

**Police Jurisdiction – Islands** (HB329, Act 2003-388). This bill amends Section 11-40-10 of the Code of Alabama 1975, relating to the police jurisdiction of municipalities, to further provide that the police jurisdiction of a municipality which extends to include part of an island adjacent to the boundary of Florida would, upon approval of the council of the municipality, extend to include all of the island including certain adjacent waters.

**Homeland Security** (HB335, Act 2003-276). Enacting the Alabama Homeland Security Act of 2003; expressing legislative findings and purposes; creating the Department of Homeland Security and specifying its functions and powers; creating the Director and Deputy Director of Homeland Security and specifying the duties and powers of these officers; providing for employees of the department; specifying additional powers of the director when the Governor declares a state of emergency under the authority of Section 31-9-8; authorizing the director to accept certain services, equipment and supplies; specifying control of appropriated funds and grants, excepting grants listed in 42 U.S.C. § 5121 through 42 U.S.C. § 5206, the Robert T. Stafford Disaster Relief Act; creating a Homeland Security

*continued page 26*

## **CARR & ASSOCIATES ENGINEERS, INC.**

**CIVIL ENGINEERS & SURVEYORS**

**Municipal Engineering Services**



**Roads & Drainage Design**



**Land & Topographic Surveys**



**Utilities, Water, Gas, Sewage**



**Structural Engineering**



**Site Planning**



**Plans Review for Code Compliance**

**2052 Oak Mountain Drive**

**Pelham, Alabama 35124**

**205-664-8498 / FAX 205-664-9685**



# Legal Notes

By Lorelei A. Lein  
Staff Attorney

## COURT DECISIONS

**Employees:** When a city limits its right to terminate an employee by providing specific procedures that must be followed in order to terminate an employee, a violation of those procedures gives rise to a breach-of-contract wrongful termination claim. *Hardric v. City of Stevenson*, 843 So.2d 206 (Ala.Civ.App. 2002).

**Licenses and Business Regulation:** A provider of local telephone services is not an operator of a telephone exchange when the provider merely resells telephone services and does not own any facilities, transmission equipment, telephone lines, switching equipment, or other engineering equipment, it does not perform maintenance work on telephone lines or equipment, and it does not provide long distance services. As such, under these circumstances, a provider would not be subject to a city's business license fee for a telephone exchange. *Fast Phones, Inc. v. City of Montgomery*, 842 So.2d 617 (Ala. 2002). NOTE: This case overrules *Dial Tone, Inc. v. City of Montgomery*, 774 So.2d 592 (Ala.Civ.App. 1999).

**Zoning:** A landowner who knows of a zoning ordinance prohibiting mobile homes before he purchases a mobile home is not entitled to a variance to allow him to place a mobile home on his property, even if the landowner has previously secured a variance for another family member to place a mobile home on the property at an earlier date. A previously granted variance cannot be the basis on which to install a second mobile home. *City of Russellville v. Vernon*, 842 So.2d 627 (Ala. 2002).

**Tort Liability:** When there is no evidence in the record tending to show that a police officer was pursuing a discretionary function, i.e., effectuating a lawful arrest, the city has failed to demonstrate that it is entitled to immunity. However, where an arrestee's complaint does not even hint that an official policy of the city resulted in the alleged unlawful

treatment, the arrestee cannot maintain a claim against the city pursuant to 42 U.S.C. § 1983 for violating his civil rights. *Telfare v. City of Huntsville*, 841 So.2d 1222 (Ala. 2002).

## Decisions from Other Jurisdictions

**Search and Seizure:** A city's refusal to return an impounded vehicle that is no longer needed for law enforcement purposes until the owner pays for towing and storage fees, or requests a hearing on that issue, is not a seizure subject to the Fourth Amendment to the United States Constitution and does not convert a prior reasonable seizure into an unreasonable one. *Lee v. City of Chicago*, 330 F.3d 456 (7<sup>th</sup> Cir. 2003).

**Employees:** Although 42 U.S.C. § 2000e-5(f)(1) makes obtaining a right-to-sue letter from the United States Attorney General a precondition to suit against a governmental employer under Title VII of the 1964 Civil Rights Act, an employee who is refused such letter on the grounds that a letter previously issued by the EEOC suffices, may obtain equitable relief from the statutory requirement. *Hiller v. Oklahoma*, 327 F.3d 1247 (10<sup>th</sup> Cir. 2003).

## ATTORNEY GENERAL'S OPINIONS

**Annexation:** The probate court may not assess, as part of the court costs of an annexation election or an incorporation election, the legal fees incurred by the court to determine whether the legal requirements have been met to proceed with the requested election, unless the fees are incurred for an expert witness appointed by the court. 2003-142.

**Employees:** Pursuant to current job descriptions, a personnel board can require current employees to comply with new advances in technology, as well as changes in the law based upon current job descriptions. 2002-148.

*continued page 25*

# LifeStyle Protector *the Living Benefits Policy*

*Hopes, dreams, plans for the future... everyone has them. But without adequate protection, a serious illness can be financially devastating causing those goals to remain unfulfilled.*

The LifeStyle Protector, underwritten by Colorado Bankers Life, is a ten-year renewable and convertible term life insurance policy with critical condition accelerated benefit rider.

The LifeStyle Protector will pay 100% of a term life insurance policy face amount in a one-time lump sum upon death or when any one of the qualifying events is first diagnosed:

- Heart Attack
- Stroke
- Life Threatening Cancer
- Renal Failure
- Major Organ Transplant
- Terminal Illness

The LifeStyle Protector also pays a lesser percentage of the face amount for certain other conditions.

Living benefits are paid from all or part of the life insurance face amount and are for covered conditions first diagnosed at least 30 days after the policy effective date (60 days for cancer). If Colorado Bankers Life approves your application and you have paid the premium or authorized payroll deduction, term life insurance coverage (death benefits only) will begin as of the date you signed the application.

**The LifeStyle Protector is one policy that does it all:**

- Pays a lump sum benefit to the insured
- Minimum Issue - whatever \$5.00/week purchases at current age
- No waiting period at issue for commencement of death benefit coverage

Living benefits may be taxable.

Some exclusions and exceptions apply. Benefits may differ and may not be available in all states. Your agent will explain the benefits available in your state.



*Preferred Products  
Preferred Service  
Preferred Support*

*Endorsed by*

**The Alabama League  
of Municipalities**

To learn more about the benefits and exclusions featured in this offer, contact:



**BENEFITS  
FOR  
AMERICA, LLC**

**(800) 391-7231**

BIRMINGHAM

Ed Owens  
*North Region*

MONTGOMERY

Will Parsons  
*Montgomery Region*

MOBILE

Anthony Allen  
*Southern Region*

Visit our website: [www.benefitsforamerica.com](http://www.benefitsforamerica.com)



**COLORADO BANKERS LIFE**  
*Insurance Company*

Colorado Bankers Life is licensed in 48 states (excluding New York and Vermont) and the District of Columbia.

# The Municipal Trouble Shooter

By Mary Ellen Wyatt Harrison, Staff Attorney

*Editor's Note: "The Municipal Trouble Shooter" is written by a League attorney to provide our members additional information about current legal issues. This column will appear regularly in The Alabama Municipal Journal.*

## **Q. What does Judicial Rule of Administration Rule 43 require of municipal courts?**

**A.** On October 1, 2002, the new Alabama Rule of Judicial Administration became effective. Rule 43 of the new Rules sets forth the minimum accounting requirements for municipal courts. Under this new rule, municipal courts are required to develop internal control systems over Uniform Traffic Ticket and Complaints (UTTC), assignment of case numbers and their disposition, responsibilities of court personnel, and cash. The rule requires that the internal control system be set out in writing. See Ala.R.J.Admin. Rule 43. Below, you will find a brief description of what is required by the new rule.

### **UTTC**

The internal control systems over Uniform Traffic Tickets and Complaints should be designed to account for all UTTC books issued. A permanent record must be maintained to document each book. Form UTC-8, which can be found in Appendix A to Rule 43, is the permanent record that shall be maintained by the Law Enforcement Agency. This record must include the book number, the date the book was turned in by the officer, the starting and ending number of the forms in the book, and the name of the officer to whom the book was issued. When the officer has used all the tickets in the book, he or she must return it to the police department with the ticket stubs and voided tickets, and the police department will file the stubs and voided tickets accordingly. The law enforcement agency is required to maintain the original form in the police department, and they are required to provide the municipal clerk with a copy of the Form UTC-8.

A permanent record or log that documents tickets issued by each officer by citation number must be maintained, and the form, Form UTC-14, can be found in Ala.R.J.Admin. Rule 43, Appendix B. The Form UTC-14 must be completed by the officer issuing the citation, and it must include "the UTTC number, the date issued, the defendant, the offense, the court case number, and the officer's signature." See Ala.R.J.Admin. Rule 43. The tickets shall be listed on the

form in numerical order and include the citation number of any voided tickets. The clerk responsible for issuing the tickets shall also include "the book series and number, beginning and ending ticket numbers, the agency name, the officer's name, the officer's identification number, the date the book was issued and the date the book was completed." See Ala.R.J.Admin. Rule 43. The original Form UTC-14 shall be maintained in a secure location in the police department, and the police department shall provide a copy to the municipal clerk.

Form UTC-3, found in Ala.R.J.Admin. Rule 43, Appendix C, must be used when the officer gives the issued UTTC forms to the court. The officer must list each ticket in numerical order on the Form UTC-3, arrange the tickets in the order that they appear on the Form UTC-3 and submit both copies of this form to the court clerk.

The court clerk shall assign a case number to each citation issued on the Form UTC-3, write the case number in the appropriate space on the form, and return the copy to the officer for his or her records.

### **Parking Tickets**

The rule provides a similar method of record keeping for parking tickets, as well as the forms to assist the municipality in implementing the new required procedures. The rule states that if a municipality issues parking tickets, it must implement the forms and procedures outlined in Ala.R.J.Admin. Rule 43. Additionally, if a municipality uses an electronic system to issue parking tickets, the system must be capable of providing the required information. Finally, these reports must be maintained for auditing purposes.

### **Case Numbers**

The rule requires that permanent case numbers be assigned to each municipal court file. These case numbers must be assigned numerically, in chronological order, and in accordance with the guidelines from AOC. The case numbers should be assigned immediately after the municipal judge or magistrate receives the arrest information or citation(s). Case numbers may not be deleted from the record nor removed from the file. If the case is transferred to the appropriate circuit court, all of the information in the file should be copied, and a notation should be made on the file that the case was transferred, as well as the date of the transfer.

*continued next page*

## Case Files

The case files must be labeled and fully documented as prescribed in the rule. There must be documentation of any continuance, as well as documentation of any reduction of fees and costs. Removal of information from files must be documented. The rule also provides additional requirements for municipalities who use computerized accounting systems.

## Receipts

All receipts must be pre-numbered and in triplicate. The copies will be distributed as follows; one will be given to the defendant, one will be placed in the case file, and one will remain in the receipt book.

If the municipality uses a computer system, there is no need to triplicate a copy of the receipt. Receipts should not be deleted from the system without supervisory approval. If a receipt is voided, there must be an explanation retained with the voided receipt. If a receipt is received by mail, it must be noted when the receipt was received, as well as the receipt number.

If a drop box is used, two individuals must concurrently collect and count the payments on a daily basis. The amount collected should be documented with signatures of each individual. The municipal clerk should keep this record for audit.

Receipts must be reconciled to the actual cash in the drawer at the end of each workday, and the clerk is responsible for this task. If the two are not equal, a record of totals must be maintained. The cash should be deposited into the bank account (see below) daily.

## Accounts

There must be a separate municipal court bank account established and maintained for municipal court receipts. Collections from the municipal court should not be commingled with other funds. The rule does not address who may or must sign on the account.

## Cash

Cash totals shall be taken at the end of each reporting period, and the funds shall be distributed to the appropriate agency. If for some reason there is a non-disbursement, the non-disbursement shall be identified by case number, the court ruling cited, and the reasons for non-disbursement stated.

## Bank Reconciliation

Bank accounts shall be reconciled to the cash book on a monthly basis.

## Return-Check Register

A returned check register shall be maintained. It shall show the date of the check, the date the check was returned, the maker, the case number and the date collected or reinstated to the case fee sheet. The returned checks must be noted on the bank reconciliation.

## Cash Bonds

All cash bonds must be posted to a cash bond transaction register. The register must show the date of the bond, the case number, the person or entity received from, and the bond account. A receipt must be placed in the case file. The cash bonds must be placed into a separate bank account, which is maintained monthly.

## Conclusion

In conclusion, as one can take from the foregoing, this places additional and substantial responsibility on the municipal court clerk. It is important that each clerk ensures that the procedures outlined in Alabama Rule of Judicial Administration Rule 43 are followed. If a municipal court clerk has questions about the rules and procedures, they should contact the Administrative Office of Courts at **334-242-0300**, or you may contact the League at **334-262-2566**. ■



**METRIC ENGINEERING, INC.**  
*Engineers Planners Surveyors*

|  |  |
|--|--|
| <b>Montgomery Office</b><br>1765 Plant Place<br>Montgomery<br>Alabama, 36117<br>Phone: (334) 215-1399<br>Fax: (334) 215-1398<br>montgomery@metriceng.com | <b>Corporate Office</b><br>13948 SW 136th St.<br>Suite 100<br>Miami, Florida 33186<br>Phone: (305) 235-5098<br>Fax: (305) 251-5894 |
|--|--|

[www.metriceng.com](http://www.metriceng.com)



## SAVE A MILLION \$\$\$\$\$\$ ON WORKMAN'S COMP

Schedule an appointment today to learn more  
and receive a **FREE** padfolio.

### Our Visual Safety Incentive Program Advantages Are:

- No Start-Up Costs
- Customization
- Fixed Budget
- No Inventory
- Quality & Service
- Experience

OSHA Concerning Incentive Programs:  
"By increasing awareness and rewarding  
behavior through incentive programs,  
employers have seen a reduction in  
all injury categories."

**"Join the Winning Team"**



Junior Davis & Associates, Inc.

Junior Davis & Associates, Inc.  
2041 Oak Mountain Drive  
Pelham, Alabama 35124  
205-620-9961 ext. 221  
www.juniordavis.com

## Legal Notes — continued from page 21

**Courts:** A city which has contracted with the county to provide dispatching services cannot use its municipal court magistrate as the dispatcher because magistrates must maintain neutrality and detachment from law enforcement activities. 2002-150.

### ETHICS COMMISSION OPINIONS

**AO NO. 2003-25:** The mayor and/or members of a city council may not vote, attempt to influence or otherwise participate in any votes to appropriate funds to, or contract with, organizations on whose Boards of Directors they sit, as these organizations are businesses with which they are associated. However, they may vote to appropriate funds to or contract with organizations to which they belong, but on whose Boards of Directors they do not sit, since membership alone does not make the organization a business with which they are associated.

**AO NO. 2003-26:** A city council member may not vote, attempt to influence or otherwise participate in a proposed settlement which would benefit the law firm employing the adult child of the councilmember. ■

## LEAGUE PUBLICATIONS ON DISK ...

### ALM Library

Seven of the League's most requested  
publications are now on computer disk ...

- Selected Readings for the Municipal Official
- Handbook for Mayors and Councilmembers
- Labor Laws Affecting Municipalities
- Municipal Public Improvement Cost Assessment
- Methods of Extending Municipal Corporate Limits
- Incorporating a Municipality
- Municipal Clerks Manual

### MunicipaLaw on Disc

- Summaries of Alabama Attorney General's opinions
- Summaries of Ethics Commission opinions
- Summaries of Alabama and Federal court opinions
- Other court opinions as published in the *Alabama Municipal News*

#### New Features to MunicipaLaw on Disc:

- *Directory of Municipal Officials*
- *Directory of Municipal Attorneys*
- *Directory of Municipal Judges*

*Use your computer to search by word,  
phrase or citation!*

**Both the ALM Library and  
MunicipaLaw on Disc are  
available in Windows format.**

To order call:

**334-262-2566**

Task Force; exempting certain information from public disclosure; creating a joint legislative oversight committee; specifying certain governmental immunity; prescribing criminal penalties; upon executive order of the Governor authorize the expenditure by the Department of Public Safety, Alabama Bureau of Investigation, and to the Criminal Justice Information Center in the amount of one hundred thousand dollars (\$100,000) each for the purpose of funding implementation and participation in the Integrated Automated Fingerprint System.

**SAFE Program** (HB336, Act 2003-305). To amend Section 41-14-35, Code of Alabama 1975, relating to security for the obligations of state depositories, to modify the list of securities and instruments that are eligible to be used as collateral for state moneys held in state depositories, to provide that Federal Home Loan Bank letters of credit provided as collateral for public deposits shall be held by the State Treasurer rather than by a third-party custodian and may be drawn by the State Treasurer when necessary to cover losses to public depositors, to confirm that collateral eligible to secure state money held in state depositories shall be eligible collateral for public deposits under the SAFE Program subject to the authority of the State Treasurer to disapprove any such collateral, and to clarify that the State Treasurer has the right to disapprove of any collateral for public deposits in any circumstance in which the State Treasurer determines that the collateral is not sufficiently marketable.

**Municipal Wet-Dry Elections – Ordinances** (HB345, Act 2003-277). To establish a procedure to be used by the governing body of any Class 1, 2, or 3 municipality or any municipality of 18,500 people or more which is wet that has annexed territory located in a dry county to determine the wet-dry status of the annexed territory located in a dry county.

**Taxability of Public Safety Death or Disability Benefits** (HB375, Act 2003-394). This bill would amend existing state law to clarify that certain death or disability compensation paid on behalf of peace officers or firemen is in the nature of workers' compensation to comply with a specific exclusion in the Internal Revenue Code at 26 USC §104.

**Help America Vote Act** (HB419, Act 2003-313). Relating to elections; to provide that the Secretary of State shall be the chief elections official in the state; to amend Sections 17-4-127, 17-4-129, 17-4-130, 17-4-136, 17-4-138, 17-4-150, 17-4-151, 17-4-187, 17-4-210 to 17-4-214, inclusive, 17-4-230, 17-4-231, 17-4-250, 17-4-252 to 17-4-255, inclusive, 17-5A-4 to 17-5A-6, inclusive, 17-7-13, 17-8-43, 17-9-23, 17-10-4, 17-10-5, as last amended by Act

2001-1097 of the 2001 Fourth Special Session, 17-10-9, 17-10-10, 17-10-23, 17-14-1, 17-14-20, 17-16-31, 17-16-35, 17-16-36, and 17-20-4, Code of Alabama 1975, to provide further for statewide voter registration; to provide further for the qualifications and duties of registrars and for the list of qualified voters in the precincts; to authorize the Secretary of State to prescribe forms and promulgate and implement administrative rules for compliance with the "Help America Vote Act of 2002" and this act; to place the Office of Voter Registration under the Secretary of State; to provide further for reidentification of voters; to provide further for the State Voter Registration Advisory Board; to provide further for coordination of the state driver's license database with the state voter registration list and the federal Social Security Administration; to provide further for canvassing returns and declaring the results of certain elections; to provide for provisional voting; to provide further for absentee balloting and voting by military and overseas voters; to provide for certain voter identification; to establish a Help America Vote Fund in the State Treasury and make an appropriation from the fund to the Secretary of State for the fiscal year ending September 30, 2003; to provide for a committee to assist the Secretary of State in implementing the "Help America Vote Act of 2002"; to provide criminal penalties for certain violations; to provide that each voting system used in an election shall satisfy certain federal requirements on or before January 1, 2005; and to repeal Sections 17-11-1 to 17-11-4, inclusive, 17-12-1 to 17-12-8, inclusive, 17-16-23, and 17-16-24, Code of Alabama 1975.

**Theft of Property** (HB491, Act 2003-355). Under existing law, theft of property, theft of lost property, theft of services, receiving stolen property and utility theft are defined according to the value of the property or services stolen or received; however, these amounts are not consistent. In 1992, when the minimum threshold level for theft of property in the second degree, a Class C felony, was raised from property exceeding \$100 in value to property exceeding \$250, and theft of property in the third degree, a Class A misdemeanor, was changed from property not exceeding \$100 to property not exceeding \$250, no corresponding changes were made in the other theft statutes or the crime of receiving stolen property. Therefore, a person stealing property of more than \$100, but less than \$250, will be guilty of a Class A misdemeanor, while a person receiving this same property will be guilty of a Class C felony. This bill would raise the property values in various theft statutes, including the theft of property whose value cannot be ascertained, theft of property, theft of lost property, theft of services, theft of utility services and receiving stolen property to redefine these offenses by increasing the

threshold and ceiling amounts for the value of property stolen or received. The bill would also raise the value involved for the crimes of criminal mischief in the first degree, criminal mischief in the second degree, criminal mischief in the third degree, defacement of public property, offenses against intellectual property, fraudulent leasing or rental of property, identity theft in the first and second degrees, charitable fraud in the first degree, charitable fraud in the second degree, charitable fraud in the third degree, illegal possession of food stamps in the first degree, illegal possession of food stamps in the second degree, and illegal possession of food stamps in the third degree.

**Municipal Wet-Dry Elections** (HB512, POCKET VETO). This bill provides for municipal option elections in municipalities of 5,000 or more and provides that if a municipality with a population of 5,000 or more votes to allow the sale of alcoholic beverages, then every other municipality in the county having a population of 4,000 or more may conduct a similar election.

**Abandoned Motor Vehicles** (HB555, Act 2003-402). This bill amends Sections 12-19-76, 32-13-1, 32-13-3, 32-13-4, and 32-13-6, Code of Alabama 1975, relating to abandoned motor vehicles, to provide that the statute would be applicable to trailers. It provides that the Department of Revenue would provide the name and address of the owners and lien holders when the vehicle has been towed, and provides for the report of sale to the register or circuit clerk when a vehicle has been sold and for the fee.

**CA – Segregation/Poll Taxes** (HB587, Act 2003-203). This bill proposes an amendment to delete those remaining “Jim Crow” provisions of the Constitution of Alabama of 1901, which have not been expressly repealed by vote of the people.

**Alabama Land Recycling Finance Authority** (HB629, Act 2003-403). This bill relates to the creation and operation of a revolving loan program to encourage and assist the voluntary remediation and redevelopment of contaminated property in rural and urban areas of the state. It adds Chapter 30F to Title 22, Code of Alabama 1975, creating the Alabama Land Recycling Finance Authority, to be administered by the Alabama Department of Environmental Management.

**Sales Tax – Nexus** (HB650, Act 2003-390). To establish the conditions under which foreign business entities with in-state affiliates have nexus in this state.

**Class 5 Mayor/Commission/City Manager City – Inoperable Vehicles** (HB772, Act 2003-358). This bill relates to Class 5 municipalities which have adopted the Mayor/Commission/City Manager form of government. It authorizes the municipalities to provide for the abatement and removal of inoperable motor vehicles as public nuisances from private property; and provides immunity for good faith

actions taken pursuant to the act.

**Clean Indoor Air Act** (SB126, Act 2003-314). This bill establishes the Alabama Clean Indoor Air Act to prohibit smoking in certain public places. It requests that employers adopt a smoking policy and provide smoke-free areas in places of employment. It prescribes penalties for violations.

**Skateboarding – Liability** (SB430, Act 2003-399). The purpose of this bill is to recognize the inherent risks involved in participation in skateboarding and roller skating activities and to impose certain responsibilities for those involved in skateboarding and roller skating activities and those operating skateboard or roller skating parks or rinks. It limits civil liability arising out of the death, injury, or damages resulting from participating, assisting, or observing skateboarding or roller skating in parks or rinks; provides for exceptions; and provides for required sign warnings.

**Retirement – Prior Service Credit** (SB519, Act 2003-376). Under existing law, a reopening for purchase of prior service credit in the Employees’ Retirement System (ERS) pursuant to Section 36-27-71 of the Code of Alabama 1975, by members of local units covered under the ERS currently requires a member eligible to purchase such prior service credit to pay the full actuarially determined cost for each year of service purchased as determined by the system’s actuary. This reopening became effective on December 28, 2001. Prior to December 28, 2001, a member of a local unit who was eligible to purchase prior service credit in the ERS pursuant to Section 36-27-71 could purchase the credit by paying a lump sum based on a percentage of his or her current annual compensation or final average salary, whichever was greater. This bill would allow a member who was eligible to purchase this prior service credit before December 28, 2001, to have an opportunity once again to purchase the credit for a sum based on an applicable percentage of his or her current annual compensation or final average salary, whichever is greater.

### **Proposed Constitutional Amendments**

- HB124, Act 2003-126** - Calhoun County court costs
- HB361, Act 2003-122** - Barbour County industrial and economic development powers
- HB457, Act 2003-125** - Walker County – Corridor X
- HB506, Act 2003-121** - Shelby County gated subdivisions
- HB514, Act 2003-120** - Tuscaloosa County retirement for public officials
- HB585, Act 2003-123** - Shelby County Probate Judge – Equity Jurisdiction
- HB599, Act 2003-128** - Calhoun County school tax continued

*continued next page*

**HB660, Act 2003-124** - Macon County bingo  
**HB666, Act 2003-129** - Crenshaw County industrial and economic development powers  
**HB680, Act 2003-205** - Russell County Board of Education  
**HB720, Act 2003-127** - Marshall County ad valorem Tax for volunteer fire departments  
**HB740, Act 2003-204** - Hale County retirement for public officials  
**SB221, Act 2003-186** - Crenshaw County industrial and economic development powers  
**SB321, Act 2003-186** - Baldwin County industrial and economic development powers  
**SB499, Act 2003-189** - Marshall County ad valorem tax

### Local Bills

**HB18, Act 2003-162** - Lauderdale County court costs  
**HB119, Act 2003-145** - Mountain Brook special ad valorem tax for schools  
**HB120, Act 2003-152** - Compensation of Henry County Revenue Commissioner  
**HB132, Act 2003-158** - Ozark ad valorem tax for schools  
**HB163, Act 2003-343** - Jefferson County retirement  
**HB164, Act 2003-173** - Calhoun County – office of constable abolished  
**HB183, Act 2003-153** - Compensation for Henry County Board of Registrars  
**HB207, Act 2003-147** - Montgomery – street renamed  
**HB208, Act 2003-148** - Montgomery – street renamed  
**HB209, Act 2003-171** - Montgomery – street renamed  
**HB210, Act 2003-** - Montgomery County & Montgomery – draft or keg beer  
**HB211, Act 2003-159** - Montgomery – street renamed  
**HB272, Act 2003-212** - Shelby County Commission government  
**HB317, Act 2003-146** - Shelby County ad valorem tax for education  
**HB326, Act 2003-155** - Pike County recording system  
**HB330, Act 2003-215** - Anniston police & firefighters retirement system  
**HB331, Act 2003-222** - Lawrence County Commission districts  
**HB333, Act 2003-216** - 10<sup>th</sup> Judicial Circuit deputy DA's  
**HB349, Act 2003-154** - Florence ad valorem tax for education  
**HB372, Act 2003-315** - Shelby County noise ordinances  
**HB412, Act 2003-156** - Chambers County Board of Registrars & County Commission compensation  
**HB413, Act 2003-200** - Chambers County coroner compensation  
**HB414, Act 2003-172** - Birmingham ad valorem tax

**HB416, Act 2003-266** - Escambia County oil & gas severance tax  
**HB424, Act 2003-149** - Escambia County ad valorem tax  
**HB448, Act 2003-198** - Washington County emergency medical rescue board  
**HB449, Act 2003-166** - Washington County tag issuance fee increase  
**HB455, Act 2003-175** - Jefferson County – publication of names of municipal employees  
**HB461, Act 2003-224** - Chilton County Board of Education membership decreased  
**HB462, Act 2003-217** - Chilton County Commission election from single-member districts  
**HB466, Act 2003-195** - Madison County beer tax  
**HB473, Act 2003-144** - Perry County ad valorem tax  
**HB474, Act 2003-218** - Coffee County Commission – election districts  
**HB492, Act 2003-143** - Lowndes County sales & use tax  
**HB568, Act 2003-333** - Montgomery County & municipalities of 5,000 or more – council staff  
**HB578, Act 2003-250** - Lawrence County recording fees  
**HB582, Act 2003-201** - Shelby County court costs  
**HB583, Act 2003-267** - Prattville sales & use tax  
**HB586, Act 2003-202** - Autauga County recording fees  
**HB596, Act 2003-168** - Choctaw County tobacco tax  
**HB612, Act 2003-335** - Henry County alcohol sales near churches & schools  
**HB613, Act 2003-361** - Calhoun County sales & use tax outside municipalities and PJs  
**HB615, Act 2003-197** – Butler County one-stop tag purchase  
**HB616, Act 2003-219** - Butler County Revenue Commissioner – office established  
**HB634, POCKET VETO** - Jackson County – transfer of water from Tennessee River Basin  
**HB638, Act 2003-248** - Chambers County tobacco tax  
**HB639, Act 2003-220** - Clay County tobacco tax  
**HB640, Act 2003-213** - Randolph County tobacco tax  
**HB675, Act 2003-274** - Montgomery – certain department heads exempt from personnel system  
**HB687, Act 2003-373** - Blount County fire & emergency medical service districts  
**HB689, Act 2003-321** - Tuscaloosa police & firefighter retirement  
**HB691, Act 2003-268** - Randolph County lodgings tax  
**HB704, Act 2003-184** - Etowah County sales & use tax  
**HB711, Act 2003-360** - St. Florian – municipal option election authorized  
**HB713, Act 2003-236** - Baldwin County Sunday sales of alcohol for off-premise consumption

**HB716, Act 2003-269** - Chilton County lodgings tax  
**HB717, Act 2003-237** - Chilton County sales & use tax  
**HB721, Act 2003-235** - Marshall County TVA in-lieu-of-taxes  
**HB735, Act 2003-227** - Lauderdale County compensation of revenue & license commissioner  
**HB745, Act 2003-281** - Clarke County tobacco tax  
**HB747, Act 2003-377** - Tuscaloosa County ad valorem tax for volunteer fire departments  
**HB752, Act 2003-284** - Elmore County Commission authorized to comply with Omnibus Pay Act  
**HB753, Act 2003-285** - Elmore County junkyards  
**HB754, Act 2003-367** - Coosa County volunteer fire departments  
**HB756, Act 2003-286** - Shelby County tobacco tax  
**HB757, Act 2003-287** - Chambers County ad valorem tax  
**HB758, Act 2003-293** - Randolph County court costs  
**HB759, Act 2003-294** - Clay County recording fee  
**HB762, Act 2003-291** - Russell County vehicle registration fee  
**HB763, Act 2003-325** - Phenix City Board of Education  
**HB765, Act 2003-386** - Phenix City form of government  
**HB766, Act 2003-292** - Bullock County Board of Registrars compensation  
**HB769, Act 2003-288** - Jefferson County sales tax for civic center  
**HB773, Act 2003-326** - Cleburne County commission districts  
**HB774, Act 2003-323** - Cleburne County tobacco tax  
**HB776, Act 2003-387** - Dothan mayor's vacancy  
**HB779, Act 2003-329** - Marengo County tobacco tax  
**SB26, Act 2003-252** - Perry County court costs  
**SB291, Act 2003-255** - Lowndes County Board of Registrars compensation  
**SB350, Act 2003-362** - Local Option elections in municipalities in Cherokee County  
**SB404, Act 2003-260** - Cherokee County Judge of Probate compensation  
**SB427, Act 2003-207** - Montgomery county and city draft or keg beer  
**SB463, Act 2003-257** - DeKalb County county commission staggered terms  
**SB479, Act 2003-188** - Russell County Board of Education redistricting  
**SB502, Act 2003-238** - Baldwin County Sunday alcoholic beverage sales  
**SB511, Act 2003-368** - Montgomery County retirement system  
**SB512, Act 2003-308** - Baldwin County Judge of Probate filing fees increased

**SB513, Act 2003-307** - Marshall County Revenue Commissioner compensation  
**SB514, Act 2003-310** - Baldwin County court costs  
**SB516, VETOED** - Shelby County tobacco tax  
**SB517, Act 2003-208** - Phenix City Sunday sales of alcoholic beverages  
**SB520, Act 2003-317** - Russell County motor vehicle issuance fees  
**SB522, Act 2003-382** - Phenix City form of government  
**SB524, Act 2003-319** - Rainsville sales tax  
**SB526, Act 2003-318** - Rainsville sales tax  
**SB529, Act 2003-379** - Tallapoosa County ad valorem tax

#### Annexation Bills

**HB213, Act 2003-214** - Eutaw  
**HB273, Act 2003-165** - Center Point  
**HB481, Act 2003-160** - Florence  
**HB562, Act 2003-170** - Loxley  
**HB633, Act 2003-211** - Bridgeport & Stevenson  
**HB651, Act 2003-234** - Gulf Shores  
**HB655, Act 2003-223** - Coaling  
**HB656, Act 2003-221** - Vance  
**HB686, Act 2003-270** - Shorter  
**HB702, Act 2003-228** - Anniston  
**HB710, Act 2003-232** - Luverne  
**HB722, Act 2003-278** - Courtland  
**HB736, Act 2003-230** - Southside  
**HB771, Act 2003-324** - Spanish Fort  
**HB780, Act 2003-330** - Collinsville  
**SB237, Act 2003-253** - Luverne  
**SB380, Act 2003-262** - Bridgeport & Stevenson  
**SB460, Act 2003-264** - Decatur  
**SB492, Act 2003-309** - Stevenson



# Speaking of Retirement

## Saving for Your Future

Concerned that Americans are not saving enough for retirement and other important needs, the Social Security Administration (SSA) and the American Savings Education Council (ASEC) in May launched a new national campaign called *Save For Your Future*. This campaign is about informing Americans of the need to plan and save for retirement and other life stages.

The majority of people working today expect their retirement income to come from their pension, Social Security, and personal savings. Experts estimate that a person will require between 70 and 80 percent of his or her preretirement income to retire comfortably. According to SSA, many Americans think that Social Security alone will guarantee their financial future. However, Social Security was never meant to be the sole source of income in retirement. It was and is meant to be part of a “three-legged stool,” along with pensions and personal savings. The *Save for Your Future* campaign emphasizes the importance of saving with easy-to-use tools that can help you make and start a financial plan.

*SSA and ASEC recommend four basic steps to secure your financial future:*

- **Calculate** how much money you may need for retirement or other goals. To begin calculating how much you will need for retirement, use your *Social Security Statement*. It is mailed three months before your birthday and provides an estimate of what you can expect to receive from Social Security when you retire.
- **Plan** how to accumulate money and other assets to help meet your needs. With Social Security only providing 40% of preretirement income for the average worker, the balance must come from pensions and personal savings. Increasing your personal savings is a great way to help maintain your standard of living when you retire. One way for public employees in Alabama to increase their personal savings and add to their financial security is by investing in a 457 Deferred Compensation Plan like **RSA-1**. **RSA-1** offers an easy and flexible way to save for retirement while providing tax relief. Call the Retirement Systems of Alabama (RSA) today at 800-214-2158, extension 299, and ask how to join **RSA-1** and start saving for a more secure future.
- **Act** to implement your plan and save the money you and your family may need. The Social Security website ([www.ssa.org](http://www.ssa.org)), American Savings Education Council website ([www.asec.org](http://www.asec.org)) and the Retirement Systems of Alabama website ([www.rsa.state.al.us](http://www.rsa.state.al.us)) all have important tools you can use to help you plan and calculate your needs for retirement. SSA offers an online Benefits Planner where you can calculate your estimated retirement benefit. The Retirement Income Estimator links you to the ASEC’s Ballpark Estimate Worksheet, which enables you to combine your estimate of Social Security benefits with estimates from pensions and savings. The RSA Web site has a Retirement Benefit Calculator to help you determine what your monthly retirement benefit will be.
- **Reassess** your financial needs and the progress of your plan every year during the three-month period between the time you receive your annual statement and your birthday. If your needs have changed or your plan is not working, readjust one or both of them.

*To Save For Your Future, remember:*

- Social Security alone will not ensure your financial security.
- Use your Social Security Statement as a financial planning tool.
- Let the RSA help by using our Web site and by inquiring about **RSA-1**.
- The sooner you start the more you will have.

Prepared by the Communications staff of the Retirement Systems of Alabama. To have your questions answered in “Speaking of Retirement”, please address them to Mike Pegues, Communications, Retirement Systems of Alabama, 135 South Union St., P. O. Box 302150, Montgomery, Alabama 36130-2150.

# PUT OUR EXPERIENCE TO WORK FOR YOU.

**Over 300 Alabama Municipalities Have.**

The League's **Municipal Revenue Service** for collection of delinquent insurance license taxes has more than 50 years experience of responsible and aggressive collection of lost revenue, currently for over 300 communities in Alabama.

Contact us today and let our proven professionals get the job done efficiently and effectively.

**Together our strength in numbers works for you.**

## ALABAMA LEAGUE OF MUNICIPALITIES

535 Adams Avenue • Montgomery, AL 36104

**334-262-2566 or 888-255-0434**



**ADVERTISE WITH  
THE LEAGUE!**

---

Call

**334-262-2566**

or visit our web site at

**[www.alalm.org](http://www.alalm.org)**

for more information.

**Visit the League  
On-line**



**[www.alalm.org](http://www.alalm.org)**

# *Insuring the Future of Local Government*



## Is *YOUR* future covered?

**STEVE WELLS, PRESIDENT**  
334-386-3863

Rated A- by  
A.M. Best

**JIM CHAMBLEE, SALES MANAGER**  
334-386-3863

Toll Free at 866-239-AMIC(2642)

110 N. Ripley Street • Montgomery, AL 36104 • [www.AMICentral.org](http://www.AMICentral.org)