

THE ALABAMA MUNICIPAL **JOURNAL**

December 2002

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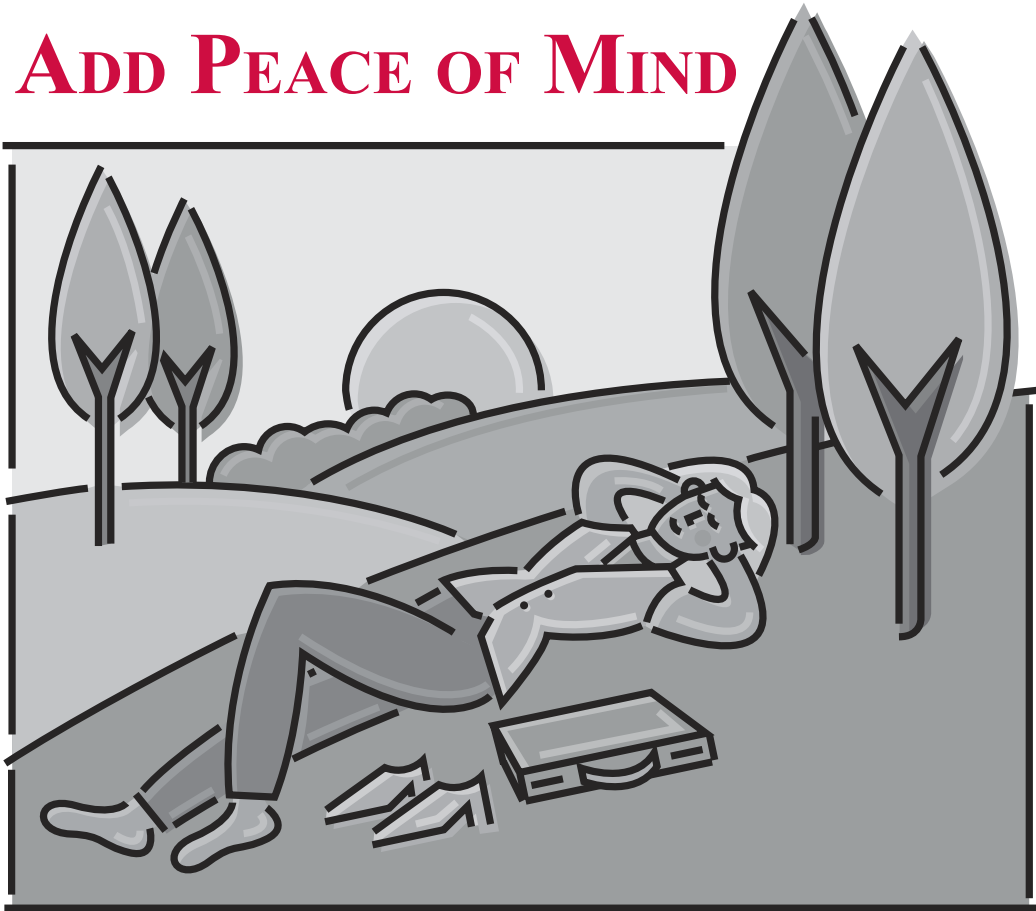
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- **NFPA Standard 1710: The Latest**
- **2003 Legislative Package**
- **2003 AAMA Update**

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Class Project Becomes County-Wide Effort to Attract Industries

What began as a class project for the inaugural class of Leadership Elmore County in 2002 has grown into a seven municipality initiative to spur economic growth throughout the county. The Elmore County Commission; the Elmore County Board of Education; and three chambers of Commerce joined forces to form their own Economic Development Authority in an effort to make Elmore County attractive to industries. The county and municipal leaders realized that in order to attract businesses to the area, they must join together.

Previously, when an industry looked at Elmore County, it had to individually contact each municipality in order to research the community to decide if it was a profitable location. Now, with the Elmore County Economic Development Authority, an industry has only one contact to make.

Mayor Al Kelley of Millbrook is quoted in the *Montgomery Advertiser* as saying: “We want business and industry to come to Elmore County. We have to make it as convenient as possible for them to deal with us. Getting them interested in Elmore County is the key. Then we can compete within the county to see who gets them. If we are in the running for a mall, or let’s say a Hyundai supplier, and lose out, I would rather Wetumpka or Tallassee get it than another county.”

The municipalities in Elmore County have come to the logical conclusion that they should work together to attract economic growth into their county – thus sharing the development with each other – rather than work separately and watch the developers and industries go to other neighboring counties.

This progressive effort through the newly formed Elmore County Economic Authority will make attracting industries and business opportunities easier for the municipalities within Elmore County. Council member Fred Watts told the *Montgomery Advertiser*: “In a big project, an industry is looking for reasons to strike your community off their list of sites. If they have seven or eight points of contact to deal with in Elmore County, it’s not worth their trouble.”

One way that the Elmore County Economic Authority is promoting its municipalities is through a professionally prepared pamphlet that illustrates each of the municipalities involved. In addition, the Authority has also developed a Strategic Plan and a Mission Statement.

The Authority consists of a 13-member board of non-elected citizens representing each of the municipalities involved, as well as the County Commission and school boards in Elmore County.

Cities and towns throughout Alabama can learn from the cooperative effort that Elmore County municipalities are making. Imagine the revenue and economic growth that the State of Alabama can experience if municipalities in every county join together in a similar effort to attract industries and businesses to their area. By joining together, municipalities and counties can make the process of choosing a location in Alabama easier and more convenient, and, in turn, increase the probability that an Alabama community will be selected.

For more information, contact the Elmore County Economic Development at **334-514-5843** or by e-mail at directors@elmorecountyalabama.org. To view their website, visit www.elmorecountyalabama.org and simply click on the logo for a list of board members and their individual contact information. ■

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The President's Report

George W. Roy
Mayor of Calera

NFPA Standard 1710: The Latest

NFPA 1710 was approved as a standard more than a year ago, and repercussions from its passage are beginning to surface in some local governments. Since substantial misinformation about Standard 1710 currently is circulating, this article attempts to provide a more balanced view of the Standard so that local officials do not rush to judgment on fire service staffing and response time decisions without knowing all the facts.

In recent weeks, some cities have reported that Standard 1710 of the National Fire Protection Association is being specifically cited in their communities as a means to leverage more resources for only one aspect of the fire service: staffing and deployment. Other important priorities, including fire prevention efforts; police protection; general emergency and terrorism preparedness; and other services of local government could be negatively affected as a result.

Proponents of increased fire staffing often state that NFPA 1710 requires, without exception, a minimum of four persons in each fire company. That is an inaccurate and incomplete reading of 1710. The NFPA Standards Council included in Standard 1710 an equivalency clause that states: "Nothing in this standard is intended to prohibit the use of systems, methods or approaches of equivalent or superior performance to those prescribed in this standard. Technical documentation shall be submitted to the authority having jurisdiction to demonstrate equivalency."

By inserting this equivalency clause into 1710, it is clear that the Standards Council determined that there are other equivalent approaches to fulfilling 1710 rather than simple reliance on input-type measures (e.g., minimum four-person staffing, maximum response times) cited elsewhere in the standard.

The International Association of Fire Chiefs notes in its "1710 Decision Guide" (in the "downloads" section of www.iafc.org) that equivalency must be based on reasonable and sound principles that could be explained to a jury. The Guide states that the analysis of resource deployment in relation to risk (which is a component to the voluntary accreditation

process of the Commission on Fire Accreditation, International (www.cfainet.org) is an option to consider in order to meet the equivalency clause.

Another related approach would be to use the "Standards of Response Cover" document that is currently being developed by the CFAI and is expected to be released in December, 2002. This document will be made available free-of-charge on the Web site of the Public Entity Risk Institute at www.riskinstitute.org. Clearly, there are many more options for equivalency that could be developed by managers, fire chiefs and corporation counsels and then presented to elected officials for their consideration and action.

A different approach has been taken by at least one community. This community reviewed the process by which 1710 was promulgated and concluded that the process was biased and not supported by science. The city council of that community then passed a resolution indicating it did not recognize the validity of NFPA 1710. A boilerplate version of that resolution is found in an article about NFPA 1710 in the "News" section of the ICMA home page at www.icma.org.

Finally, although 1710 is an approved standard of NFPA, proposals for revising or changing 1710 currently are being considered and must be submitted to NFPA no later than January 3, 2003.

Make Your Views Known on NFPA Fire Service Standard 1710

The NFPA Standards Council placed NFPA 1710 into a special three-year review cycle, as opposed to the normal five-year cycle, and the work of the new NFPA 1710 Technical Committee has begun. The National League of Cities (NLC) and other groups representing local governments have representatives on the 1710 Technical Committee.

NFPA Standard 1710 is the controversial proposal, adopted last year, that recommends minimum staffing levels (4 per company) and response time standards (4 minutes maximum for initial response) for fire companies staffed by substantially all career firefighters.

If your community wants to propose a change to Standard 1710, your proposal must be submitted by **January 3, 2003**. Outlined below is information about the NFPA 1710 review schedule and details on how to submit proposed changes to the Standard.

NFPA Review Schedule

The Standard is currently open for public proposals. Anyone can submit the proposals. Proposals must be received at the NFPA office by 5:00 p.m. on January 3, 2003. Proposal forms, as well as the current edition of NFPA 1710, are available on the NFPA web site at www.nfpa.org/Codes/CodesandStandards.asp. The NFPA format must be utilized,

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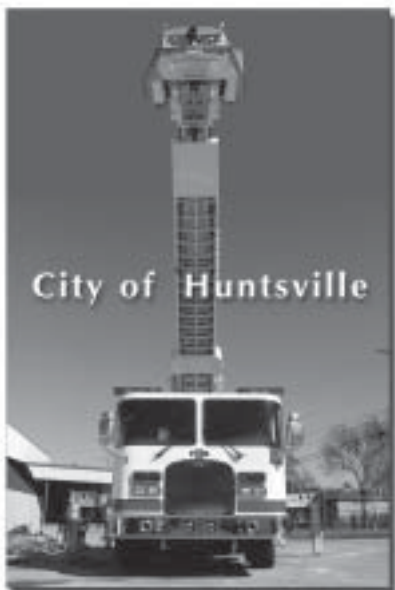


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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

2003 League Legislative Package

The Alabama League of Municipalities Committee on State and Federal Legislation, which is chaired by Mayor Michael C. Dow of Mobile, met at League Headquarters on Thursday, November 7, 2002. The committee, which is composed of elected municipal officials from throughout the state, considered a multitude of legislative recommendations from the League's five policy committees, member municipalities and the League staff. At the conclusion of the meeting, the committee unanimously approved the following package of bills to be introduced during the 2003 Regular Session which begins on March 4, 2003. The source from which the legislative recommendation is based is stated at the end of each legislative proposal. "PG" means *Proposed Policies and Goals 2003*.

Appropriation for Wastewater Treatment SRF

Several years ago, the Alabama Legislature established a State Revolving Loan Fund for Wastewater Treatment (SRF). The purpose of the SRF was to take state funds and match them with federal dollars to create a loan fund to offer low interest loans to governmental entities for wastewater treatment projects. The League will seek additional matching funds from the legislature to continue this nationally recognized SRF program. (PG – E-11.1)

Appropriation for Drinking Water SRF

Several years ago, the Alabama Legislature established the Alabama Drinking Water Finance Authority for the purpose of taking state funds and matching them with federal dollars to create a loan fund to offer low interest loans to governmental entities for drinking water projects. This program is very similar to the wastewater SRF discussed above. The League will seek funds from the legislature to match federal dollars available for drinking water SRF programs. (PG – E-11.2)

Penalty for Violation of Municipal Ordinances

Section 11-45-9, Code of Alabama 1975, provides that the maximum fine that can be assessed for violation of a municipal ordinance is \$500 and/or six months in jail. The sole exception is DUI offenses where the fine can be as high as \$5,000. The DUI penalties have been increased as have fines for reckless driving. In order for the municipal court to be in line with other courts for the same offenses, the League will ask the legislature to amend the Code of Alabama so as to provide that the maximum fine for violation of a municipal ordinance shall be \$500 or the maximum allowed by state law for the offense, whichever is higher. (PG – F-10.47)

Election Law Amendments

The 2000 municipal elections revealed several problems with the laws under which municipal elections were conducted. The League will seek legislation to improve the municipal election laws. Among the changes sought are the following: (1) Amend the notice of election provision to clarify certain items; (2) allow adjustments to be made in the number of electronic vote counters to be used in runoff elections; (3) establish separate absentee voting and electronic voting laws for municipal elections; and (4) eliminate the need to post the list of absentee voters in municipal elections at the county court house. (PG – F-11.2)

Corrections Funds

Section 11-47-7.1, Code of Alabama 1975, authorizes municipalities to levy additional court costs and establish a corrections fund for the operation of municipal jails and court complexes. Legislation will be sought to provide that 60 percent of the money in the corrections fund must be expended for municipal court purposes and that the remaining 40 percent of the money in the corrections fund may be spent for municipal court systems, jails or law enforcement purposes. (PG – P-8.16)

Participation of Municipal Officials in Employees' Retirement System

This League bill would propose a constitutional amendment to allow municipal officials to participate in the Employees Retirement System of Alabama on the same basis as full time municipal employees. (PG – F-5.10)

Zoning of Newly-Annexed Territory

Municipalities have the legal authority to zone territory within their corporate limits. Currently, newly-annexed territory comes into the municipal either "unzoned" or zoned for a classification as set out in the zoning ordinance for newly-annexed territory. The League will offer legislation to

continued next page

authorize municipalities to establish a zoning classification for lands proposed to be annexed prior to the actual annexation. The zoning classification will be good for a certain time period during which time the municipality can enact a permanent zoning classification for the area. (PG – C-1.3)

Dispensing of Medication in Municipal Jails

The Attorney General has ruled in Opinion 2002-138 that only physicians, pharmacists or licensed or registered practical nurses can dispense or administer medication in municipal jails. This ruling causes a significant financial burden to smaller cities and towns. This bill proposes an alternative to help alleviate the financial burden this opinion imposes. (PG – P-10.3)

Require Insurance Companies to Use ISO Ratings

For years insurance companies have used Insurance Services Office (ISO) ratings to determine premiums for fire insurance policies; and for years municipalities have expended large sums of money to improve the ISO ratings for their municipalities to help lower fire insurance rates for their citizens. Recently, a large insurance company has decided to abandon the longtime practice of using ISO ratings to set fire insurance premiums. After having expended large sums of money to improve ISO ratings, municipal leaders feel the action unfair. This bill seeks to require all insurance companies to adhere to ISO ratings when setting fire insurance premiums. (PG – C-4.14)

Administrative Fees for Collection of State Taxes

There are many instances where a municipality is required to collect fines, fees or taxes on behalf of a state agency. This bill provides that in those instances where a municipality is required to collect fines, fees or taxes on behalf of a state agency, the collecting municipality shall be entitled to deduct an administrative fee before remittance to the proper state agency. (PG – F-2.6)

Speed Limit Enforcement

Current law prohibits a municipal police officer from writing a ticket for the offense of speeding in the police jurisdiction. This bill will remove the restriction. (PG – P-6.10)

Mayor's Appointment Powers

State law provides that a mayor shall have the power to make all appointments unless otherwise provided by law. The Attorney General has given an opinion that a municipal ordinance is a law for the purpose of this provision. Therefore, current law is that a mayor shall make all appointments unless another appointment authority is established by state law or municipal ordinance. This bill would amend current law to provide that a mayor can make

all appointments unless otherwise provided by state law. (Floor)

Alternates on Municipal Planning Commission

Current Alabama law provides that a municipality can establish a municipal planning commission composed of nine members. There have been numerous instances over the years where several members are absent from a meeting thus causing a lack of a quorum. This bill would give the mayor permissive authority to appoint two alternate members to the planning commission to serve only in the absence of regular members. (Floor)

Alabama Historic Preservation Tax Credit

The League proposes legislation to establish the Alabama Historic Preservation Tax Credit. Currently, federal law provides a federal income tax credit equal to 20 percent of approved costs for qualified rehabilitation for income-producing buildings. This bill proposes to create a state tax credit for the rehabilitation of both income producing and non-income producing properties. More specifically, this bill proposes:

- To create a 20 percent state income tax credit for rehabilitating an income-producing historic property.
- To create a 20 percent state income tax credit for rehabilitating residential historic properties (non-income producing properties). For the historic homes located in a target areas, as defined by the Internal Revenue Code, the credit will increase to 25 percent on the minimum rehabilitation expenses of \$5,000 or 50 percent of the adjusted basis of the property.

Currently 12 other states have enacted tax credits similar to the one proposed for Alabama. (Floor)

Conclusion

The Committee on State and Federal Legislation has adopted an ambitious Legislative Package for 2003. All municipal officials are urged to get behind this package and push for its passage during the session.

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ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran
Director, State and Federal Relations

EPA to Work with 21 Federal Agencies to Revitalize Brownfields

Speaking before the “Brownfields 2002 – Investing in the Future” Conference in Charlotte, NC, EPA Administrator Christie Whitman announced that her agency and 21 other federal agencies and departments under the Bush Administration have committed to work together to redevelop Brownfields under the new Brownfields Federal Partnership Action Agenda. The Agenda makes over 100 commitments for cooperative work to help communities more effectively prevent, clean up and reuse Brownfields.

“This year saw some of the most important accomplishments in years in our national Brownfields effort,” said Whitman. “The year 2002 will be remembered as the year we knocked down the roadblocks, strengthened the partnerships, affirmed Washington’s financial commitment, and unleashed the energy and creativity of the private sector.”

The action agenda is one piece of a comprehensive effort by the Bush Administration to address Brownfields cleanup and revitalization efforts. Earlier this year, President Bush signed the new Small Business Liability Relief and Brownfields Revitalization Act to help states and communities around the country clean up and revitalize Brownfield sites. As part of his FY 2003 budget request, the President has called for more than a doubling of money for the Brownfields program to \$200 million. (Brownfields are real property, the expansion, redevelopment or reuse of which may be complicated by a hazardous substance, pollutant or contaminant.) The President and Congress recognized in this new law the importance of federal partnerships in achieving their mutual goals of environmental protection and economic revitalization. This action agenda fosters those partnerships.

Highlights of the Action Agenda commitments include:

- EPA’s commitment to potentially provide \$850 million over the next five years to states, tribes, counties, municipalities and non-profit organizations through Brownfields assessment, cleanup, revolving loan fund, job training and state/tribal grants;

- Commitments by the U.S. Economic Development Administration, U.S. Department of Housing and Urban Development, U.S. Department of the Interior, U.S. Department of Justice and U.S. Department of Labor to offer funding priority to Brownfields communities through their respective grant mechanisms;

- The National Oceanic and Atmospheric Administration’s commitment to lead an interagency “Portfields” project that will focus on the redevelopment and reuse of idled or abandoned lands in and around ports, harbors and marine transportation hubs;

- The U.S. Army Corps of Engineers’ commitment to announce eight new pilots under its “Urban Rivers Initiative” to address restoration in and around urban rivers;

- A new, concerted effort to share program information with interest groups, by methods such as linking web sites;

- Changing federal agency policies to facilitate Brownfields redevelopment; and

- Making funding and technical assistance to Brownfields communities a budget priority at all federal agencies.

Whitman made the announcement at the seventh annual “Brownfields 2002 – Investing in the Future” Conference at the Charlotte, N.C., Convention Center. The Conference

continued next page

was co-hosted by the Engineers' Society of Western Pennsylvania and the International City/County Management Association. The program, held in the Charlotte Convention Center, included more than 75 different technical sessions and workshops, over 40 roundtable discussions, an extensive exhibit hall and presentations of the Phoenix Awards – which were created in 1997 to recognize highly innovative yet practical remediation projects which bring Brownfields sites back to productive use. Within this diverse array of presentations, participants explored almost every aspect of the new legislation as well as shared best practices and success stories.

Other topics addressed included finance, insurance, community involvement, legal liability, new state, local and tribal programs, land conservation, remediation technology, real estate transactions, and new industrial residential and commercial development. The conference also provided attendees with new opportunities to explore the banking and finance issues associated with Brownfields redevelopment.

To date, EPA's Brownfields assistance has leveraged more than \$4.6 billion in private investment; helped create more than 20,000 jobs; and has resulted in the assessment of more than 4,000 properties. Every acre of reclaimed Brownfield saves 4.5 acres of greenspace. To obtain a copy of the Brownfields Federal Partnership Action Agenda, which includes a list of participating agencies, go to www.epa.gov/brownfields.

Watersheds Reflect Land Usage

Pollutants, like motor oils, fertilizers and pesticides, flow into creeks, rivers and bays that drain into nearby land. Watersheds are everywhere. But what is a watershed, and why is this concept important? A watershed is an area of land that drains to one central body of water, such as a creek, river or bay.

Watersheds are nested. For example, the Bon Secour River watershed flows into the larger Mobile Bay watershed, which is in turn part of the watershed of the Gulf of Mexico. Not only does water flow through the watershed, but any pollutants, including soil, motor oils, pesticides and fertilizers, can be carried into a body of water by stormwater, affecting the water quality.

So why worry about watersheds? Water quality not only affects our quality of life but is a reflection of our land use. Increases in impervious surfaces such as roofs, parking lots and roads decrease the amount of rainfall that can penetrate into the groundwater, which can affect groundwater supplies and also, in turn, increase the amount of rainfall running

directly into surface waters, which can increase flooding downstream. The watershed concept is an important idea to consider when planning for growth. Many ideas can be incorporated into development that can reduce stormwater runoff. Permeable pavements, for example, allow rainwater to soak back into the ground. A wide variety of permeable options exist, including grass pavers, used at the University of South Alabama's Mitchell Center and at Ladd-Peebles Stadium; brick pavers, used at the Dauphin Island Sea Lab Estuarium; and permeable concrete, used at the Fairhope Justice Center. Homeowners can also help reduce the amount of water running off their property by planting native vegetation that uses less water; planting fewer areas of grass; and encouraging no-mow zones. Permeable surfaces should be used for patios, decks and driveways.

For more information on watersheds and how you can decrease pollution in your area, visit www.aces.eddepartmentnextcompublicationanANR121ANR-1215.html to read "The Citizen's Guide to Nonpoint Source Pollution in Coastal Alabama." ■

Job Listing

OPERATIONS MANAGER, Town of Falkville

The Town of Falkville is accepting applications/resumes for Operations Manager of the Utilities and Street Departments. A quick synopsis of the position includes overseeing the daily operations of different areas of the town, including but not limited to, the water, wastewater and streets. Other responsibilities include customer service, budgeting, inspecting construction jobs, costing of jobs, accurate and timely filing of reports. Qualifications include high school diploma, college degree preferred, minimum five years utility experience, valid drivers license, a grade 1 certificate in water and wastewater or the ability to obtain. Must be willing to work overtime, nights and other non-traditional hours when necessary. The above description is not intended to be all-inclusive. We offer State hospital insurance and retirement benefits. All interested candidates for this position should send resume, reference and salary requirements to Belinda Ealey, Town of Falkville, P.O. Box 407, Falkville, AL 35622. Any questions, call town hall at **256-784-5922**. The position will remain open until filled. The Town of Falkville is an Equal Opportunity Employer.



By Ken Smith
Deputy Director/Chief Counsel

THE LEGAL VIEWPOINT

2003 AAMA Update

Dues statements for membership in the Alabama Association of Municipal Attorneys (AAMA) for 2003 went out in early November. The deadline for the return of dues is January 31, 2003. Membership is voluntary, but any attorney who represents municipalities is eligible for membership. If you are an attorney who represents municipalities, please strongly consider joining your fellow attorneys in this organization. The cost of an annual membership is only \$25.00.

In last year's update, I informed you of some major changes on the horizon. One of the most anticipated, and in hindsight most significant, developments involved the midyear meeting. The ad hoc AAMA Strategic Planning Committee spent two days here in Montgomery planning AAMA's future and much of that time was devoted to an in-depth examination of the midyear meeting. The format of the 2002 seminar in Tuscaloosa was the result of this session.

As anyone who was there can tell you, it was quite probably the best conference we've ever had for our municipal attorneys and prosecutors. It was certainly one of the best attended. In fact, the size of the attendance took us by surprise, which created a few small hurdles that had to be overcome. Despite these difficulties, the evaluations for the conference were uniformly high. One attendee wrote on his or her evaluation that this was the "best municipal law seminar ever. Excellent speakers, good materials with elements that are immediately useful."

One of the most beneficial changes to the midyear meeting involved the split format. The Friday morning session was devoted to topics useful to both municipal attorneys and prosecutors. Following lunch, though, the attendees split into either of two rooms, one devoted to general municipal law topics, while the other was dedicated to issues

specifically related to municipal prosecutors. Attendees reconvened on Saturday morning for a continuation of the joint session. The 2003 midyear meeting in Opelika will follow the same format.

The League would like to issue a special thanks to everyone who participated in either planning or conducting the midyear meeting, from the registration staff to the speakers. The meeting was a resounding success.

2003 Midyear Meeting

The 2003 midyear seminar promises to be even more successful than the 2002 conference. To some extent, the 2002 conference was an experiment with location and format. Our experiences in Tuscaloosa have enabled us to iron out the few wrinkles that occurred last year.

The 2003 Midyear Meeting will be held at the Lodge and Conference Center at Grand National in Opelika. The Lodge is an incredible facility with outstanding meeting space and hotel rooms. We have increased the size of the meeting rooms to accommodate the increased attendance. We think that you will like the changes you see.

One change you should be particularly aware of is that the date of the conference has changed due to a conflict with the International Municipal Lawyers Association meeting in Minneapolis. Several of our members attend the IMLA seminar, so we were able to alter our dates so they can attend both. The new dates of the AAMA conference are August 15 and 16, 2003. Please make this change in your calendar and plan to attend this significant conference.

AAMA in Huntsville

While you're marking your calendar, don't forget the AAMA annual meeting in Huntsville. This meeting will be

continued next page

held on Saturday, April 26, 2003, at the Huntsville Hilton. The AAMA Planning Committee has met and planned an outstanding meeting. Although speakers are not set yet, some of the topics you're likely to see discussed include Historic Preservation, Stormwater Phase II Compliance, an Overview of the Zoning Process and Legislative and Attorney General's Opinions Updates. Additional topics include a League panel to cover Commonly Asked Legal Questions, and Common Issues on the Employee's Hotline provided by the Alabama Municipal Insurance Corporation (AMIC) and the Municipal Workers Compensation Fund (MWCF).

Also, don't forget that the annual meeting is when the AAMA business meeting is held. If you are an AAMA member, you will have the opportunity to vote on by-law changes and to elect officers for the next two years. I hope you will plan to attend.

Joining AAMA

Since its creation, AAMA members have worked closely with the League of Municipalities on conducting educational seminars for municipal attorneys and prosecutors, as well as the development and passage of legislation and ordinances. Additionally, AAMA has helped keep members informed about current developments in municipal law both in Alabama and nationally. AAMA has also provided the means for members to communicate with each other when seeking legal advice or assistance with court advocacy through the filing of amicus briefs. (**NOTE:** See page 19 of this publication for a membership application.)

AAMA's accomplishments are due to the input and participation of its members. Interest and participation in AAMA is at an all-time high. In 2002, over 230 attorneys and prosecutors joined AAMA. These attorneys represent municipalities of all sizes, from some of the smallest in Alabama to the largest, and come from all parts of the state.

One of the greatest services AAMA provides municipal attorneys and prosecutors is the opportunity to meet and confer with other attorneys in Alabama who face many of the same problems. Municipal lawyers confront unique issues that don't arise in the day-to-day practice of law in the private sector. From the application of federal regulations through the implementation and enforcement of local ordinances, municipal lawyers are on the front lines, advising officials and employees on a broad range of legal topics involving an endless variety of fact situations. Frequently answers must be given very quickly – with little or no advance warning. An attorney's response influences public policy and can, potentially, subject the municipality or its representatives to liability. Keeping up with every law and regulation that affects municipalities is an impossible mission.

To help, AAMA hosts two conferences each year and brings in expert speakers from around the country. Members

are provided ample opportunities at these meetings to discuss common concerns and potential solutions. Additionally, AAMA has an e-mail listserve for its members to share their thoughts, suggestions and news. An AAMA member can post a message to the listserve and have his/her message automatically sent to every other municipal attorney who is a member of the list. Presently, some 132 attorneys and prosecutors belong to the listserve and can provide nearly instantaneous responses.

AAMA also has a web page as part of the League's web site. News that is pertinent to attorneys is posted on this page. AAMA's page can be accessed at: www.alalm.org/AAMA.htm. Here, members can find a membership directory that provides them with contact information for other members. Members can also learn about upcoming educational opportunities.

Members may join one or more AAMA committees. There are five committees: Litigation, Prosecution, Ordinances, Legislation and Conference Planning.

These committees benefit the League and its members, as well as AAMA members. The Conference Planning Committee has been instrumental in the success of both the annual and midyear conferences the past few years. Evaluations for these meetings have been extremely high since AAMA was organized and this accomplishment can be traced directly to the effort and assistance of the attorneys who serve on this committee. The Prosecution Committee planned the prosecution session of the midyear meeting and did an outstanding job. Members of the Legislation Committee have reviewed bills and offered public comments to legislative committees while members of the Ordinance Committee have assisted the Alabama Law Institute's Ordinance Review Service.

Because it has been several years since we published the AAMA by-laws, I have included them in this article. If you aren't a member of AAMA and represent municipal attorneys or prosecute municipal cases, I hope will join with your fellow municipal attorneys and prosecutors in AAMA.

CHARTER OF THE ALABAMA ASSOCIATION OF MUNICIPAL ATTORNEYS OF THE ALABAMA LEAGUE OF MUNICIPALITIES

Governing Document

This Charter governs the organization known as the Alabama Association of Municipal Attorneys (AAMA), a Section of the Alabama League of Municipalities (ALM), a nonprofit association of Alabama municipalities.

ARTICLE I Name

The name of this organization shall be the Alabama Association of Municipal Attorneys (referred to as "AAMA" or the "Section"), which shall be a section of the Alabama League of Municipalities (referred to as ALM).

ARTICLE II

Purposes

The purposes of AAMA shall be to do all of the following, but not for pecuniary profit:

1. To strengthen the quality of legal representation of municipal corporations through continuing education and the publication of newsletters and other works of interest in the field of municipal law;

2. To be an educational and research organization for the benefit of corporate counsel representing Alabama cities and towns which are members of ALM.

3. To provide corporation counsel representing public entities the opportunity to exchange ideas, to consult with one another, and to meet with persons in or associated with public corporation law.

4. To recognize persons who have made significant contributions to the area of municipal law.

5. In the performance of its purposes AAMA shall take no action in conflict with the constitution of ALM, nor jeopardize the tax-exempt status of ALM.

ARTICLE III

Offices

The principal office of AAMA shall be the principal place of business of ALM.

ARTICLE IV

1. Membership

Every city and town attorney and prosecutor representing on a more or less regular basis a member of ALM, as well as their deputies and assistants, and ALM staff members, duly admitted to practice law in the State of Alabama, shall be entitled to full membership in the Section.

Any attorney admitted to practice law in the State of Alabama who has a substantial interest in municipal law may become an associate member upon application and approval by the Board of Directors.

Questions as to the status of an applicant as either a full or associate member shall be resolved by the Board of Directors.

2. Dues

The amount of dues to be paid by each full member and associate member of the Section shall be determined by a

majority vote of full members attending their annual meetings.

3. Meetings, Notice

Annual meetings of AAMA members shall be on one or more dates of the annual convention of ALM, and at the same general location.

4. Quorum

The number of full members of the Section present in person at any membership meeting of members shall constitute a quorum.

5. Voting Rights

Each municipal attorney present in person who is a full member shall have one vote upon each matter to be considered at the annual meeting, or at any special meeting. Voting shall not be cumulative nor by proxy. Associate members shall be entitled to participate in the meetings and affairs of AAMA, but shall not have a vote.

ARTICLE V

1. Officers

Members of the Board shall include the following officers: President, Vice President, Secretary/Treasurer, who shall be the ALM Attorney, and the two Immediate Past Presidents.

2. Terms of Office

Officers shall be elected to two (2) year terms, by a majority of the votes cast for each position by Section members present at annual meetings. Officers shall take office immediately upon their election. Nominations for Officer positions shall be by the Nominating Committee and may be by nominations from the floor at annual meetings. The Nominating Committee shall consist of not less than three nor more than five AAMA members appointed by the President of AAMA.

3. Reelection

Officers shall be eligible for reelection.

4. Qualification

An officer must hold a full membership with AAMA at the time of election and must continue as a full member during his or her term of office. The subsequent loss of eligibility to participate in AAMA as a full member shall disqualify the officer from holding office.

5. Duties Of Officers

President: The President shall preside at all meetings of the members of the Section and the Board. The President

continued next page

may appoint members to all standing and special committees except as otherwise provided herein. The President, or designee thereof, shall represent the Section at meetings of the ALM Board of Trustees.

Vice-President: In the absence of the President, the Vice-President shall perform the duties of the President. In the event of a vacancy in the position of President, the Vice-President shall succeed to the office of President for the unexpired term. Vacancies in the office of Vice-President shall be filled by the President.

Secretary/Treasurer: The Secretary/Treasurer shall give notice and keep minutes of all meetings of the Section members and the Board, and shall maintain the Section membership list. The Secretary/Treasurer shall account for all financial matters of the Section and report thereon at their annual meeting, and shall render such financial statements as the Board may require. The Secretary/Treasurer shall also be responsible for the municipal legal news publications of the Section, and their distribution to Section members.

Immediate Past Presidents: Among other assignments identified in this Charter, the Immediate Past Presidents shall serve to promote participation in Section activities. The Immediate Past Presidents shall perform other duties as the Board may request to use the talents and experience of this Officer to the advantage of the Section.

6. Compensation

Directors and officer shall not be compensated for serving in their respective capacities.

ARTICLE VI

Participation in Other Organizations

AAMA may join or cooperate with other national, state and local attorneys organizations which will benefit the Section and its members.

ARTICLE VII

1. Contracts and Finance

AAMA shall not have power to bind its future boards, nor to bind the ALM beyond the authorized budget to pay for goods and services without ALM consent. The President, or the Vice-President, and the Secretary/Treasurer shall be signatories to such agreements as are authorized.

2. Checks and Other Instruments

The Secretary/Treasurer shall have authority to execute any and all checks and other negotiable instruments authorized by the membership, on behalf of the Section.

ARTICLE VIII Charter Amendment

This Charter may be amended by the members of the Section having full voting membership, who are present in person at any annual meeting of AAMA. Amendment shall require a vote in favor of amendment by at least two-thirds (2/3) of such members present. The written text of any proposed amendment shall be furnished all members at least thirty (30) days before the meeting at which the amendment is to be considered.

ARTICLE IX

Upon termination of AAMA as a Section of ALM, all assets of AAMA shall become the property of ALM. ■

MARK YOUR CALENDARS

2003 Midyear Meeting Scheduled for August 15-16 in Opelika



The 2003 Midyear Meeting will be held at the Lodge and Conference Center at Grand National in Opelika. The Lodge is an incredible facility with outstanding meeting space and hotel rooms. The size of the meeting rooms has been increased to accommodate the increased attendance. We think that you will like the changes you see.

One change you should be particularly aware of is that the date of the conference has changed due to a conflict with the International Municipal Lawyers Association meeting in Minneapolis. Several AAMA members also attend the IMLA seminar; therefore the dates of the 2003 AAMA conference have been altered so members can attend both. The new dates of the AAMA conference are **August 15 and 16, 2003**. Please make this change in your calendar and plan to attend this significant conference. For additional information, visit: www.alalm.org/AAMA.htm



Legal Notes

By Lori Lein
League Counsel

COURT DECISIONS

Tort Liability: Summary judgment was not appropriate in a road defect case where evidence was put forth in opposition to city's motion for summary judgment providing that at least two people had complained to the city about the road condition and numerous accidents had occurred at the particular intersection involved. Either actual or constructive notice will suffice to impose upon a municipality the duty to correct a dangerous condition on public roads or to provide warning signs. *Hollingsworth v. City of Rainbow City*, 826 So.2d 787 (Ala. 2001).

Tort Liability: Where city police officer was entitled to state-agent immunity, city was also entitled to that immunity for purposes of action brought against the city by a bank customer and her sons, alleging that the officer asked a reporter at a newspaper to run an article about check forgery, together with a photograph of the customer and her sons taken from a surveillance videotape, and that photograph was published in the newspaper with a caption stating that the photo showed suspects that the police department was looking for in connection with a pending forgery case. *Key v. City of Cullman*, 826 So.2d 151 (Ala. Civ. App. 2001).

Property: A city's purchase of land for and the construction of, a parking lot adjacent to a retail shopping center was for a public purpose and did not involve the lending of credit; thus, the issuance of revenue warrant did not violate the constitutional prohibition against municipalities granting public money to individuals or corporations. *Guarisco v. City of Daphne*, 825 So.2d 750 (Ala. 2002).

Alcoholic Beverages: Local bill specifying circumstances under which a municipality fitting within the population limits prescribed in the bill can authorize the sale of alcoholic

beverages serves the same purpose evidenced by Section 28-2A-1 et seq, of the Code of Alabama 1975, and therefore, if enacted, would be an unconstitutional violation of Section 105 of the Constitution of Alabama of 1901 because it is subsumed by the general law. *Opinion of the Justices No. 376*, 825 So.2d 109 (Ala. 2002).

Planning and Zoning: Subdivision regulation permitting the totally discretionary determination of the buffer zone needed in a particular location, unguided by any objective, clearly stated criteria, failed to set forth sufficient standards to give applicants notice of what was required of them, and thus, planning commission's imposition of an additional 10 feet of buffer space to a proposed 10 foot buffer in a commercial subdivision plan was arbitrary and capricious and exceeded the commission's power. *Providence Park v. Mobile City Planning Comm'n*, 824 So.2d 769 (Ala. Civ. App. 2001).

Decisions From Other Jurisdictions:

First Amendment: A pedestrian easement on walkways through a downtown plaza developed by a church following the church's purchase of a parcel resulting from a two-block street closure constitutes a traditional public forum in which a municipality may not, consistently with the First Amendment's Free Speech clause, bar all expressive activities except those permitted by the church. *First Unitarian Church of Salt Lake City v. Salt Lake City Corp.*, – F.3d – (10th Cir. No. 01-4111); 71 L.W. 15 (Oct. 22, 2002).

Employment Discrimination: A metropolitan transit authority's requirement that entry-level applicants for transit police officer positions run 1.5 miles in 12 minutes has been shown by sufficient evidence to be "job related for the position in question and is consistent with business necessity" and

continued next page

therefore does not violate Title VII of the 1964 Civil Rights Act, notwithstanding the disparate impact on female applicants. *Lanning v. Southeastern Penn. Transp. Auth.*, – F.3d – (3rd Cir. No. 01-1040); 71 L.W. 16 (Oct. 29, 2002).

Ordinances: Local ordinances barring national banks and savings associations from charging non-depositors automated teller machine fees are preempted by the National Bank Act and Home Owner’s Loan Act and are not saved from preemption by the Electronic Transfer Act. *Bank of America v. Santa Monica*, (9th Cir. No. 00-16355); 71 L.W. 17 (Nov. 5, 2002).

First Amendment: A municipality’s removal of markers from utility poles designating areas where Orthodox Jews can, according to religious tenets, permissibly travel on the Sabbath, while permitting holiday decorations, lost animal signs, and other private notices to remain posted, likely violates the First Amendment’s Free Exercise Clause as selective enforcement of an ordinance prohibiting attachments to utility poles on public thoroughfares. *Tenaflly Eruv Assoc., Inc. v. Tenaflly, N.J.*, (3rd Cir. No. 01-3301); 71 L.W. 18 (Nov. 12, 2002).

ATTORNEY GENERAL OPINIONS

Elections: A municipality is not required to hold an election to determine whether an Improvement Authority may proceed to acquire, establish, purchase, construct, maintain, lease, or operate a cable system if no petition is timely filed or if the petition filed is insufficient. However, when an election is required to be held, and there is no previously scheduled general or special municipal election, a municipality must designate a special election date in accordance with sections 11-50B-8 and 11-46-21 of the Code of Alabama 1975. 2003-006.

Property: A city may sell real estate for less than adequate consideration to a private entity only if the city determines that a public purpose is served. 2003-008.

State Licensed Professions: Licensed professional engineers may perform architectural services incidental to their engineering practice and registered architects may perform engineering services incidental to their architectural practice. 2003-009.

Council: The law does not require that a council’s appointed representative to the planning commission consult with the other members of the council before casting votes on the planning commission. Further, a city council may only remove a member it selected to serve on the commission upon a finding of inefficiency, neglect of duty, or malfeasance in office. If such a finding is made, the majority of the members of the

council could vote to remove their appointee to the commission. 2003-010.

Conflicts of Interest: A Class 8 municipality may contract, under the provisions of Section 11-43-12.1, with a wood-waste recycling business partially owned by a council member if the provisions set out in the statute are followed. Specifically, the statute allows a municipality to purchase personal property or services from an elected official, municipal employee, or board member if the official or employee is the only domiciled vendor of the personal property or service within the municipality and the cost of the property or service does not exceed \$3000. **NOTE:** Section 11-43-12.1 of the Code of Alabama 1975 also applies to Class 7 municipalities. 2003-014.

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

Elections: Absentee votes cast for a deceased candidate should be counted in determining the total votes cast for the election and are not to be attributed to the replacement candidate. Voters who have cast an absentee ballot for a deceased, disqualified, or otherwise ineligible person are not authorized by Alabama Law to cast a new ballot. 2003-022.

Prisons & Prisoners: In the absence of a contract specifying otherwise, a municipality is responsible for the food and housing expenses of municipal prisoners in county jails. A municipal prisoner may only be placed on work release and may only be granted work release by a municipal court or municipal parole board. 2003-025.

ETHICS COMMISSION ADVISORY OPINIONS

AO-NO. 2002-47: A member of a city civil service board may provide auditing services to the city where his company’s business dealings will be with the city proper and not the civil service board directly. Further, because a member of a city civil service board is a public official as defined by the Ethics Law, copies of any contracts entered into between the official’s firm and the city must be filed with the Ethics Commission.

AO-NO. 2002-48: The chair of a municipal commercial development authority may participate in a grant program to be administered by the commercial development authority, when there is money available to all applicants for the grant, and he receives no benefit not received by other applicants.



ALABAMA ASSOCIATION OF MUNICIPAL ATTORNEYS

2003 Membership Application

Date: _____

Name: _____

Title: _____

Address for AAMA Mailings (Including Zip Code): _____

Telephone: _____

FAX: _____

E-mail: _____

Municipality(ies) Represented: _____

Amount Due: \$25.00

Amount Enclosed: _____

Would you be willing to serve on an AAMA Committee? Yes _____ No _____

If yes, please indicate first and second selection(s) below:

Litigation _____ Prosecution _____ Ordinances _____ Legislation _____ Conference Planning _____

Would you be willing to serve as a regional chair and contact attorneys in your area concerning legal developments? Yes _____ No _____

Do you prosecute cases in municipal court? Yes _____ No _____

**Return form with check made to AAMA to:
Laura Anne Whatley
Alabama Association of Municipal Attorneys
P.O. Box 1270 • Montgomery, AL 36102
Telephone : (334) 262-2566 • FAX: (334) 263-0200**

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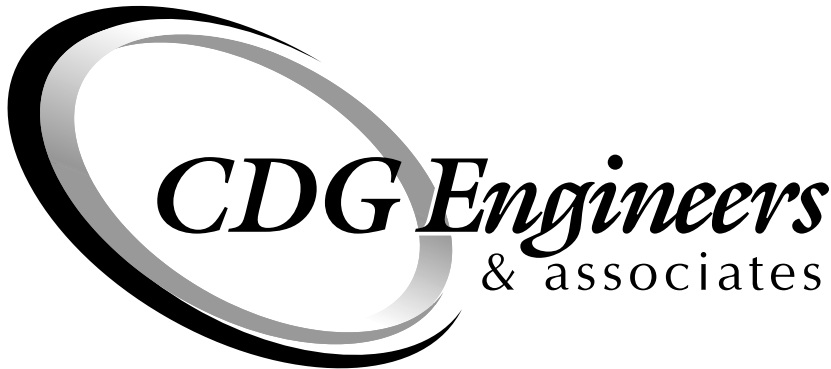


Site Planning



Plans Review for Code Compliance

**2052 Oak Mountain Drive
Pelham, Alabama 35124
205-664-8498 / FAX 205-664-9685**



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

Speaking of Retirement

Prepared by the staff of the Retirement Systems of Alabama and edited by
Mike Pegues, Director of Communications.

Tax Information

Q. Are my retirement benefits from the RSA subject to federal income tax?

A. The majority of your retirement benefit is subject to federal income taxation. Contributions to the RSA that were previously taxed and purchases of service credit with previously taxed funds are exempt from federal taxation over the life expectancy of the retiree. Generally, two to four percent of monthly retirement benefits are exempt from federal taxation.

Q. How will the taxable amount of my retirement benefit be reported to me?

A. During the last week of January 2003, the RSA will mail all retirees a Form 1099-R Income Statement for use in filing a personal income tax return. The 1099-R will report the retirement benefits subject to federal income tax. Approximately a week prior to mailing out the 1099-R, the RSA will send each retiree a letter outlining the tax reporting procedures needed to file their 2002 tax return.

Q. Are RSA retirement benefits subject to state of Alabama income tax?

A. If you reside in Alabama, RSA retirement benefits are **not** subject to state of Alabama income tax. If you reside in another state, check with that state's revenue department to determine your tax status.

Q. How do I increase the federal taxes withheld from my retirement check?

A. You can increase the federal taxes by completing a W-4P, Withholding Certificate for Pension or Annuity Payments. You can request a W-4P from the RSA by telephoning **334-832-4140** or **1-800-214-2158** toll-free (extension 399 for the Employees' Retirement System or

extension 499 for the Teachers' Retirement System) or by writing the RSA at P.O. Box 302150, Montgomery, Alabama 36130-2150. You can also obtain a W-4P, as well as other tax forms by contacting the IRS at **1-800-829-3676** or download it from the IRS Web site, www.irs.gov.

Q. If I do not receive a Form 1099-R from the RSA by February 10, 2003, how may I obtain one?

A. The RSA will provide a duplicate Form 1099R, but not until after February 10, 2003. The original Form 1099-R is mailed to the home address on file with the RSA. If you have moved and have not provided the RSA with your correct address, the U.S. Postal Service may not forward your Form 1099-R. To correct your mailing address, send the RSA written verification of your new address and include your full name and Social Security number. You can also obtain a Change of Address card from the RSA or download the form from our Web site, www.rsa.state.al.us.

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.

*Happy Holidays from
the League Officers
and Staff!*

Welton Reynolds

Welton Reynolds, former council member of Florence and the first black person elected to public office in Lauderdale County, died November 8, 2002. He was 90.

Reynolds was elected to the Council in 1984 and served two terms. The retired educator and principal was also one of the first black members of the Downtown Florence Kiwanis Club and was active in the Boy Scouts. ■

John Lewis

John Lewis, former Prichard City councilmember, died November 11, 2002 at age 65.

From 1976 to 1980, he served on the Council. In 1977, he was appointed to the Prichard Water Board. He was among Prichard's first black officers when he joined the city's police department as a patrolman in 1963. He retired in 1992 as a detective sergeant.

He is survived by his wife, four daughters and two grandchildren. ■

NFPA Standard 1710 continued from page 7

and proposals can be submitted by mail, fax or through the web page.

The Technical Committee will review the proposals at a meeting on March 3-5, 2003, in St. Petersburg, FL. The Technical Committee votes by a letter ballot. A two-thirds affirmative vote of the Committee is required to move the draft standard forward to the next step. Committee members can change their vote.

Everyone who sends in a proposal will receive a response back by August 1, 2003 explaining the Committee's action with respect to their proposal(s).

A revised draft will then be distributed that will include the actions of the 1710 Technical Committee concerning the proposals submitted. The Standard will then move out of the "Proposal" stage and into the "Comment" stage of the process. Comments on the Revised Draft will be due to the NFPA office by October 10, 2003.

The 1710 Technical Committee will meet again between October and December of 2003 to review and vote on Comments. As done previously, all people who submit Comments will receive a reply from the Committee by March, 2004, outlining Committee actions on their comments.

The NFPA membership will vote on the revised NFPA 1710 Standard at their annual meeting in Salt Lake City on May 4, 2004. The NFPA Standards Council will approve, amend, disapprove or send NFPA Standard 1710 back to Committee by July 4, 2004. ■

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