

The Alabama Municipal JOURNAL

July 2007

Volume 65, Number 1

Profiles of League President and Vice President

PHOTO
CONTEST!

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Official Publication, Alabama League of Municipalities

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Editor: CARRIE BANKS

Staff Writers: TRACY L. ROBERTS, KEN SMITH

Graphic Design: LAURA WHATLEY

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A Message from the Editor



In July 1997, Perry Roquemore offered me the position as the League's Communications Director and I officially joined the staff in August. At that time, I was 28, had been out of graduate school for five years and was still trying to find my way in the professional realm. I'd yet to find a place that allowed me to grow and become an integral part of the organizational structure. My first job after receiving my master's degree in Communication from the University of Alabama was as the Communications Director for a grant-funded educational reform project in NC, my home state. As grants tend to do, the money eventually ran out and so I accepted a public relations position with a residential foster care facility in Montgomery. From there, I stumbled into the association world when I was hired by the Alabama Education Retirees Association (then known as the Alabama Retired Teachers Association). Little did I know, however, that my career would be defined when Perry hired me in 1997.

1997! Where did a *decade* go? I'm no longer 28 (although you're no doubt impressed with my youthful enthusiasm), and the past 10 years have whizzed by so rapidly it's a wonder my head's not on backwards! (Careful. I know what some of you are thinking.) Not surprisingly, I've experienced a tremendous amount of personal and professional growth since joining the League staff. Indeed, the Alabama League of Municipalities is as comfortable and congruous as my own family. Every day I'm challenged, rewarded, proud and thankful. I consider myself not only fortunate, but blessed to be working for an organization whose mission I wholeheartedly believe in and whose members appreciate and support our efforts on their behalf.

That being said, I'll forego further reflection and cut to the chase. Most of you will notice this month's *Journal* has a new and considerably more stylish design. Laura Anne Whatley, the League's Web Administrator/Tradeshow Coordinator, is primarily responsible for this new look and I wholeheartedly thank her for her hard work and creative eye. Laura Anne has been part of the League family for five years and is an invaluable asset not only to the Communications Department, but to the entire association. Plans are underway to redesign the League's website later this summer once Laura Anne has completed a two-day workshop on Dreamweaver, a high-powered web design software program.

Our annual convention tradeshow this past April was the largest and most successful we've ever had. Many of the tradeshow vendors have purchased listings in the back of the League's annual *Directory* and we encourage you to use your *Directory* when researching vendors for your municipal projects and services.

In last month's *Journal*, we announced our inaugural "Municipal Photography Contest". The winning photo will be featured on the cover of the League's *2008 Annual Directory and Vendor Listings* which is distributed each year in January. Other entries will be used in the *Journal* throughout the year. Contest information is detailed on p. 30 of this issue and I encourage you to send in your municipal photos. Pictures of municipal buildings, parks, streets downtowns, city festivals ... all are acceptable. Because the winning photo will appear on the cover of the *Directory*, the picture must be vertical, color and taken at a high resolution so the print quality is not compromised. More information can also be found on our website at www.alalm.org.

Ken's legal column this month focuses on the 2008 municipal elections and includes the highly anticipated municipal elections calendar (which can also be found online). Our legal staff is currently writing the *2008 Elections Manual* and plans to have it ready for distribution in late August.

I hope you enjoy the new *Journal* design. Feedback is always welcome. Don't forget to send in your municipal photos!

Carrie

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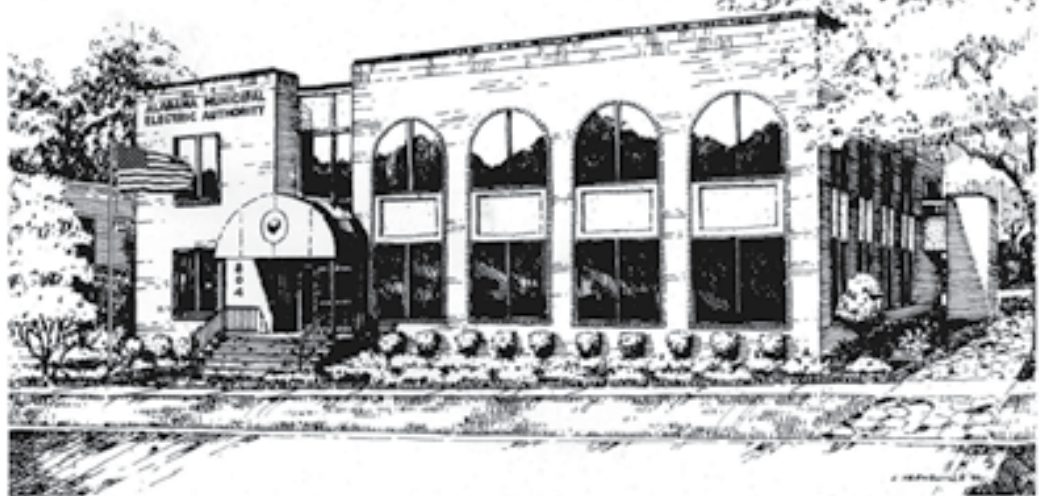
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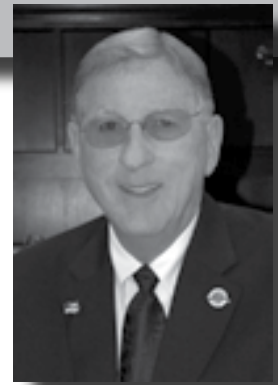
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The President's Report



Charles W. "Sonny" Penhale
Mayor of Helena

Local Governments Key to Success of 2010 Census

The Census Bureau estimates there will be more than 310 million people living in more than 130 million households across the country by 2010. The partnership of local governments is vital to accomplish the feat of counting every person living in all 50 states, the District of Columbia and Puerto Rico.

Factoring in an increasingly diverse population, the rise in immigration and a record number of languages spoken by respondents, the need for a complete and accurate address list to mail or hand-deliver questionnaires will play a critical role in obtaining an accurate population count in the next census.

Although the 2010 Census is still three years away, the U.S. Census Bureau has begun mailing informational booklets to all state, local and tribal governments about a program for them to provide updated addresses for their communities – known as the Local Update of Census Addresses (LUCA) program. This joint and voluntary program between the Census Bureau and local governments is the official start of the 2010 Census, which depends on a complete and accurate address list. Your assistance in assuring the residents in your community are counted is crucial to a successful census.

"Census data drive reapportionment and redistricting decisions and directly affect the distribution of more than \$200 billion in federal funding each year," said Doug Palmer, president of the U.S. Conference of Mayors. "In order to get money for public health, education, transportation and much more, mayors across the country need to take the lead and work to get a complete count of their city's population in 2010 – LUCA is the first step."

In partnership with the Census Bureau, local governments will use their area knowledge to improve the list of addresses for housing units and group quarters, including growth from new

construction or annexation. After registering for LUCA between July 2007 and January 2008, participating governments will receive review materials and will have 120 days to review and improve the address list. The information contained in the address list is confidential by law, and those governments that choose to participate in the LUCA program will be provided an option to review the Census Bureau's address list. Like all census employees, those who review and update a confidential address list are subject to a jail term, a fine or both if they disclose any protected information.

After LUCA but prior to the 2010 Census questionnaire delivery, address listers will perform a field canvass across the country to make sure the latest address list is correct. Using GPS mapping on hand-held computers, workers will be able to update information electronically while out in the field.

"The Census Bureau has moved beyond being a 'pen and paper' census and is now utilizing new technology in order to improve the speed and accuracy of census operations in the field," said Census Bureau Deputy Director Preston Jay Waite. "We are mandated by the Constitution to count the population every 10 years, and with the reengineering of the 2010 Census, we will be well equipped to fulfill this mandate."

Dating back to the nation's first census in 1790, the 2010 Census will have one of the shortest census questionnaires in the history of the United States. Asking just seven questions, including name, sex, age, race, ethnicity, relationship and whether you own or rent your home, the questionnaire should take respondents approximately 10 minutes to complete.

Visit the 2010 Census LUCA Program at www.census.gov/geo/www/luca2010/luca.html for more information. ■

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Vendor Profiles are included in the League's premium advertising packages. For more information on purchasing a package, contact Laura Anne Whatley at 334-262-2566 or lauraw@alalm.org.

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WHEN LIVES ARE IN THE BALANCE
AND SECONDS COUNT

Municipal Overview

Final Report on the 2007 Regular Session



Perry C. Roquemore, Jr.
Executive Director

The Alabama Legislature completed its 2007 Regular Session at midnight on Thursday, June 7. This year, 1476 bills were introduced and 294 bills received final passage. By comparison, in 2006, 1439 bills were introduced and 367 received final passage. The general fund budget, the education budget, and an education bond issue received final passage during the session. State employees and teacher received pay raises and a large number of local bills received final passage. The legislature also approved 25 proposed amendments to the State Constitution will be brought to the voters for ratification at a later date.

Final Status of the League Legislative Package

The Senate accomplished very little on the last day of the session. A coalition of conservative Democrats and Republican senators resumed their session-long protest over Senate rules and committee assignments adopted earlier this year by eighteen Democratic senators. Although many bills, including four League bills, were eligible for final passage in the Senate on the last day of the session, very few bills were approved. None of the four League bills were brought up for consideration.

On a more positive note, the General Fund Budget (**HB208**) contained an appropriation of \$516,849 for the Wastewater State Revolving Loan Fund. Another bill strongly supported by the League also received final approval – **SB149**, which validates prior incorporation elections. League bills that failed to pass this session will likely be reintroduced in a future session.

The League wishes to thank the following persons for sponsoring League bills this session: Representatives Bill Dukes, Ron Johnson, Mike Ball, Rod Scott, Marcel Black,

Steve McMillan, Cam Ward, and Warren Beck, and Senators Zeb Little, Harri Ann Smith, Jabo Waggoner, Parker Griffith, Linda Coleman, Ted Little, Wendell Mitchell and Larry Means.

Status of Dangerous Legislation

There were a number of bills introduced this session that would have had a negative impact on municipalities had they received final passage. We are happy to report that only one of these bills received final passage – **HB185**, which prohibits municipal licensing of out-of-town realtors.

Among the bills that died this session were bills to severely restrict municipal regulation of cell towers, to require municipalities to collectively bargain with their public safety employees, to prohibit licensing of ambulance companies, to grant tax exemptions to certain entities, to prohibit municipal regulation of fertilizer, to limit the ability of cities to set up city school boards, to eliminate the state sales tax on food, to propose an initiative procedure for city ordinances, to establish procedures for internal investigations of law officers, to establish an Alabama Building Code Council, to establish a meet and confer law for police officers, and to weaken municipal control of billboards.

General Bills of Interest to Municipalities that Passed

Education Bond Issue (HB21, Act 2007-415): To authorize the Alabama Public School and College Authority to sell and issue \$850,000,000 aggregate principal amount of Bonds, in addition to all other bonds previously issued

by the Authority, for the following purposes: To provide funds to pay the cost of a capital outlay and deferred maintenance program for K-12 schools, two-year schools and higher education institutions; to provide for the details of the Bonds and for the terms of the sale thereof; to make an appropriation and pledge for payment of the principal of and interest on the Bonds of the proceeds from specific excise taxes and other specific and dedicated appropriations to the extent necessary to pay the principal of and interest on the Bonds at their respective maturities; to authorize the Authority to pledge for payment of the principal of and interest on the Bonds the moneys so appropriated and pledged; to provide that the Bonds shall be limited obligations of the Authority payable solely out of the funds so appropriated and pledged so that the Bonds will not create a debt or obligation of the State; to provide that the Bonds and the income therefrom shall be exempt from taxation in this State and the Bonds may be used to secure deposits of funds of this State and its political subdivisions and for investment of fiduciary funds; to exempt the Authority and the Bonds from the usury laws; to authorize the issuance by the Authority of refunding bonds for the purpose of refunding the principal of and interest on any then outstanding Bonds theretofore issued by the Authority and the expenses of such refunding and any premiums necessary to retire those so refunded; to provide that after payment of the expenses of issuing the Bonds the proceeds from the sale thereof shall be disbursed on orders or warrants issued by or under the direction of the Authority for the purposes for which the Bonds are authorized to be issued; to provide for the timely expenditure of the proceeds from the sale of the Bonds; to provide for the sale of the Bonds by competitive public sale; and to provide for the payment of expenses incurred in connection with the issuance of the Bonds.

Code Update (HB68 – Act 2007-147): To adopt and incorporate into the Code of Alabama 1975, those general and permanent laws of the state enacted during the 2006 Regular Session as contained in the 2006 Cumulative Supplement and 2006 Replacement Volume to certain volumes of the code; to initially adopt and incorporate into the Code of Alabama 1975, 2005 Volume 22B (Local Laws Autauga - Blount Counties) and 2005 Volume 22C (Local Laws Bullock - Cherokee Counties) and the 2006 Cumulative Supplement to these volumes; to specify that this adoption and incorporation constitute a continuous systematic codification of the entire Code of Alabama 1975 and that this act is a law that adopts a code; to declare that the Code Publisher has certified it has discharged its

duties regarding the replacement volumes; to expressly provide that this act does not affect any 2007 session statutes; and to specify the duties of the Secretary of State regarding the custody of these cumulative supplements, replacement volumes, and initial volumes.

Scrap Metal Dealers (HB94, Act 207-451): To require secondary metal recyclers to maintain a record of purchases; to provide a procedure by which records are maintained and may be inspected; to authorize a hold by law enforcement on certain sales of metals by secondary metal recyclers; to provide exemptions; to provide criminal penalties.

Ethics Law – Definition of Lobbyist Amended (HB122, Act 2007-VETOED): To amend Section 36-25-1, relating to the definitions for purposes of the State Ethics Law, to include within the definition of lobbying and lobbyists persons who attempt to influence contracts for the purchase or lease of supplies, services, or materials which are not competitively bid.

Tax Exemption – Food Banks (HB138, Act 2007-453): To exempt all food banks within the state from the payment and collection of any state, county and municipal sales and use taxes.

Port Authorities (HB155, Act 2007-285): Relating to the incorporation of public port authorities for the development of waterfront property; to amend Sections 11-94-1 and 11-94-4, Code of Alabama 1975, to further define the term “county” and to further define the geographical boundaries of an authority’s jurisdiction in the certificate of jurisdiction.

Municipal Real Estate Licenses (HB185, Act 2007-364): To add Section 34-27-30.1 to the Code of Alabama 1975, to prohibit a political subdivision from levying a license tax on licensed real estate salespersons and associate brokers.

General Fund Budget HB208, Act 2007-282): To make appropriations for the ordinary expenses of the executive, legislative and judicial agencies of the State, for other functions of government, for debt service, and for capital outlay for the fiscal year ending September 30, 2008.

Education Budget (HB213, Act 2007-361): To make appropriations for the support, maintenance and development of public education in Alabama, for debt service, and for capital outlay for the fiscal year ending September 30, 2008.

Municipal Water & Sewer Board Compensation (HB250, Act 2007-458: To amend Sections 11-50-15 and 11-50-313, Code of Alabama 1975, as amended, relating

to boards of directors of municipal corporations providing water and sewer services, to provide further for the compensation and expenses of members and chairs of the boards of directors.

Hazardous Waste Fees (HB257, Act 2007-594): To amend Section 22-30B-2, Code of Alabama 1975, relating to fees paid by operators of commercial sites for the disposal of hazardous wastes; to provide for a lower base fee or the disposal of certain hazardous wastes.

E-911 Service Charges on Commercial Mobile Radio Service – (HB318, Act 2007-459): To amend Sections 11-98-6, 11-98-7, and 11-98-8, Code of Alabama 1975, relating to service charges for emergency telephone service (E-911) on commercial mobile radio service; and to add Section 11-98-7.1 to the Code of Alabama 1975, to further provide the procedures for collecting the service charge; to provide for the powers of the board; and to provide for one bank account for the board rather than separate bank accounts for each district.

Competitive Bid Law – Bid Bonds – Local Preference (HB339, VETOED): To amend Section 41-16-50, as amended by Act 2006-621, 2006 Regular Session (Acts 2006, p. 1702), and Section 41-16-57 of the Code of Alabama 1975, relating to competitive bidding by local governmental and educational instrumentalities; to further provide for the authority of the awarding authority to require a bid bond; to further authorize a local preference where the bid from a local vendor is greater than the bid of the lowest responsible bidder; and to further provide for making an award to the second lowest responsible bidder in the event that the lowest responsible bidder defaults under the bid award.

Presidential Preference Primary (HB358, Act 2007-461). Relating to primary elections and presidential preference primary elections, repealing Section 17-16-6, Code of Alabama 1975, as amended by Act 2006-354, Act 2006-570, and Act 2006-634 and as renumbered by Act 2006-570 and adding Section 17-13-3 to the reorganized Title 17 to provide primary election dates and for the conduct of such elections; and amending Section 17-13-100, Code of Alabama 1975, relating to the presidential preference primary election, to specify additional provisions when the date of the election is also Mardi Gras.

Tax Increment Districts – Military Property (HB372, Act 2007-204): To amend Section 11-99-4, Code of Alabama 1975, relating to limitations of equalized taxable property in certain tax increment districts, to exclude from the aggregate value equalized taxable property located within the boundaries of a military reservation, jurisdic-

tion of which has been ceded to the United States.

Tax Increment Districts – Expenditures by Class 3 Municipalities (HB373, Act 2007-205): To amend Section 11-99-6, Code of Alabama 1975, relating to expenditures of tax increment districts, to allow expenditures to be made for districts created by Class 3 municipalities no more than 10 years after the district is created if so provided for in the district plan.

Minimum Standards for Local Emergency Management Directors (HB395, Act 2007-462): To provide minimum standards for local emergency management directors and to establish certification and continuing education programs for local emergency management directors; and to provide a state supplement for local emergency management agencies employing a certified local emergency management director.

Alabama Uniform Environmental Covenants Act (HB426, Act 2007-464): To create the Alabama Uniform Environmental Covenants Act; to create rights in real property for certain holders of environmental covenants; to provide rules regarding the priority of environmental covenants as they relate to other legal interests in real property; to provide use restrictions and requirements for information contained in a covenant; to provide for the enforcement of covenant, and rights of covenant holders; to provide that a covenant is permanent except under certain conditions; to provide for amending covenants; and to provide a civil action for equitable relief for a violation of a covenant.

ERS – Retirees and Beneficiaries – One Lump-Sum Payment Authorized (HB520, Act 2007-257): To provide for a funded one-time lump-sum addition to the retirement benefits of certain retirees and beneficiaries of the Employees' Retirement System and make an appropriation.

Tax Abatements – Large Industrial Projects (HB664, Act 2007-199): To authorize an abatement of ad valorem taxes, construction related transaction taxes, utility taxes, and an enhanced capital credit for qualifying entities that invest in very large projects in the state of Alabama that are of a size and character to produce substantial economic benefits to the entire state. Such abatements and credits shall enhance the current abatements and credits for the entities that qualify under the provisions of this Act. Income tax withholding requirements are strengthened to ensure proper employee withholding amounts are reported and paid to the State.

Class 8 Municipalities – Joint Agreements with Other States (HB704, Act 2007-468): To authorize joint

action between certain Class 8 municipalities of the state and certain municipalities of other states when the other state also authorizes such joint action for the operation of public transportation systems, fire fighting, law enforcement, and public works, to include, but not be limited to, personnel and fringe benefit costs.

Community Development Districts – Alcoholic Beverages (HB830, Act 2007-417): To amend Sections 35-8B-1 and 35-8B-2, Code of Alabama 1975, relating to community development districts, to provide an additional and alternate definition of a community development district and for the establishment and operation of the district.

Ad Valorem Tax Assessments – Time Period for Filing Objections (SB4, Act 2007-381): To amend Sections 40-2-18, 40-3-16, 40-3-19, 40-3-20, and 40-7-25, Code of Alabama 1975, relating to the filing of objections to ad valorem tax assessments; to extend the period for filing objections to notice of valuation of property.

Incorporation Validation (SB149, Act 2007-385): To amend Section 11-41-8 of the Code of Alabama 1975, to further provide for the validation of any prior incorporations of municipalities after May 1, 1998.

Motor Vehicle Safety-Responsibility Act (SB202, Act 2007-VETOED): To amend Sections 32-7-2, 32-7-6, and 32-7-16, Code of Alabama 1975, relating to the Motor Vehicle Safety-Responsibility Act and providing for certain insurance or financial responsibility on recovery for death, bodily injury, and loss of services and property; to increase certain proof of financial responsibility.

ERS – Purchase of Prior Service Credit (SB222, Act 2007-388): To allow certain active and contributing members of the Employees' Retirement System who are employed by a local unit participating in the system to purchase prior service credit in the system under certain conditions for full-time employment as a firefighter with another municipality that was not a participating employer in the system.

Alabama Revolving Loan Fund Authority (SB244, Act 2007-279): To amend Section 11-85-106, Code of Alabama 1975, relating to the issuance and sale of bonds by the Board of Directors of the Alabama Revolving Loan Fund Authority, to increase the aggregate amount of the bonds which the board is authorized to sell.

Elected Officials – Retirement Benefits (SB413, Act 2007-403): To amend Sections 16-25-26 and 36-27-8.2, Code of Alabama 1975, relating to the Teachers' Retirement System and the Employees' Retirement System, to allow certain retirees to receive compensation for their

elected position without suspension of retirement benefits if the retiree does not participate in or accrue additional benefits under the Teachers' Retirement System or the Employees' Retirement System and remove expired language concerning waivers by certain retirees.

Maintenance of Abandoned Cemeteries (SB464, Act 2007-408): To authorize certain persons the right to access a cemetery on privately owned or leased property, and to authorize a county or city governing body to establish an authority and a trust fund for the maintenance of abandoned cemeteries.

Proposed Constitutional Amendments

HB103, Act 2007-225 – Shelby County Judicial Commission

HB310, Act 2007-207 – Chilton County Special Property Tax

HB451, Act 2007-211 – Etowah County Court Costs

HB509, Act 2007-208 – Henry County Court Costs

HB565, Act 2007-209 – Macon County Board of Education Elections

HB589, Act 2007-222 – Lauderdale County Judicial Commission

HB630, Act 2007-206 – Tallapoosa County Fire and Emergency Medical Services Districts

HB793, Act 2007-313 – Lamar County Court Costs

HB806, Act 2007-314 – Pike County Court Costs

HB858, Act 2007-210 – Baldwin County Ad Valorem Tax – Senior Property Tax Appraisal

HB868, Act 2007-315 – Lee County Court Costs

HB889, Act 2007-316 – Pickens County Court Costs

HB890, Act 2007-317 – Jackson County Occupational Tax Prohibited

HB891, Act 2007-318 – DeKalb County Occupational Tax Prohibited

HB892, Act 2007-319 – Tallapoosa County – Motor Vehicle Laws in Gated Communities

HB902, Act 2007-353 – Baldwin County Ad Valorem Tax for Roads & Water Drainage

HB916, Act 2007-354 – Fayette County Court Costs

SB32, Act 2007-226 – Jackson County Occupational Tax Prohibited

SB33, Act 2007-227 – DeKalb County Occupational Tax Prohibited

SB145, Act 2007-360 – Madison Ad Valorem Tax for Schools

SB374, Act 2007-358 – Lee County Court Costs

SB460, Act 2007-357 – DeKalb County Methadone

Clinic

SB488, Act 2007-359 – Tallapoosa County Fire and Emergency Service Districts

SB499, Act 2007-356 – Lamar County Court Costs

SB501, Act 2007-355 – Franklin County Court Costs

Local Bills

HB54, Act 2007-450 – Birmingham – Criminal Sex Offenders

HB63, Act 2007-213 – Greene County Privilege, License, Excise and Sales Tax Termination Date Extended

HB82, Act 2007-242 – Calhoun County Board of Equalization

HB96, Act 2007-215 – Houston County Motor Vehicle License Tags

HB97, Act 2007-216 – Houston County Commission Contingent Fund

HB141, Act 2007-133 – Enterprise School System Appropriation

HB148, Act 2007-454 – Mobile County Temporary Probate Judges

HB152, Act 2007-244 – Blount County Commission Contingent Fund

HB153, Act 2007-245 – Probate Judge, Revenue Commissioner, Sheriff – Monetary Losses Reimbursement

HB253, Act 2007-292 – Chilton County Commission Elections

HB293, Act 2007-248 – Bibb County Constable Office Abolished

HB295, Act 2007-249 – Shelby County Constable Office Abolished

HB297, Act 2007-363 – DeKalb County Community Development Commission and Community Development Fund

HB309, Act 2007-250 – Gadsden Board of Education Elections

HB319, Act 2007-295 – Auburn Ad Valorem Tax

HB409, Act 2007-369 – Covington County Use Tax

HB411, Act 2007-220 – Pickens County Transaction Fee for Recording System

HB429, Act 2007-370 – Sheffield Sunday Alcoholic Beverage Sales

HB449, Act 2007-251 – Anniston Police & Firefighters Retirement System Investments

HB450, Act 2007-252 – Lauderdale County Transfer of Water from Tennessee River Basin

HB470, Act 2007-253 – Houston County Recording

Fee

HB484, Act 2007-254 – Blount County Investigator in DA Office

HB496, Act 2007-255 – Baldwin County DA Investigator Powers

HB513, Act 2007-256 – Baldwin County Municipalities – Contracting with Sheriff for Police Services

HB553, Act 2007-371 – Pike County Sales and Use Tax

HB586, Act 2007-301 – Opelika Ad Valorem Tax

HB587, Act 2007-302 – Lee County Ad Valorem Tax

HB620, Act 2007-VETOED – Phenix City Abandonment of Council-Manager Form of Government

HB621, Act 2007-262 – Russell County Planning Commission – Master Plan & Zoning Regulations

HB622, Act 2007-VETOED – Russell County Commission – Filling of Vacancies

HB627, Act 2007-263 – Chambers County Probate Office – Fees for Remote Computer Access to Records

HB632, Act 2007-264 – Baldwin County Branch Probate and Revenue Offices

HB633, Act 2007-265 – Baldwin County Poll Worker Compensation

HB634, Act 2007-266 – Baldwin County Commission – Chair Rotation

HB642, Act 2007-372 – Albertville Tag Fee

HB643, Act 2007-373 – Albertville Ad Valorem Tax

HB692, Act 2007-306 – Shelby County Solicitor's Fee

HB706, Act 2007-308 – Baldwin County Court Costs

HB709, Act 2007-309 – Tusculumbia Civil Service System

HB712, Act 2007-310 – Birmingham Park & Recreation Board Membership

HB714, Act 2007-312 – Blount County Supernumerary COLA

HB715, Act 2007-320 – Madison County TVA Proceeds for Roads

HB726, Act 2007-324 – Madison County Board of Health Fees for Environmental Services

HB730, Act 2007-322 – Houston County Privilege & License Taxes Expiration Date Extended

HB732, Act 2007-323 – Crenshaw County Water Meter Fee for E-911 Service

HB764, Act 2007-329 – Limestone County Juvenile Court Services Fund

HB767, Act 2007-330 – Pike County – New Voting Center

HB777, Act 2007-374 – Lee County Court Costs

HB780, Act 2007-470 – Colbert County Court Costs for

County Drug Abuse Task Force
HB783, Act 2007-471 – Madison County District Attorney Fee
HB786, Act 2007-333 – Talladega County Pistol Permit Fees
HB792, Act 2007-473 – Lamar County Solicitor’s Fee
HB804, Act 2007-VETOED – Perry County – Sunday Sales of Alcoholic Beverages
HB814, Act 2007-336 – Russell County Improvement Assessments Outside Municipalities
HB817, Act 2007-VETOED – Russell County Sales and Use Tax
HB820, Act 2007-475 – Etowah County Motion Picture License Tax
HB822, Act 2007-362 – Jefferson County – Tenant Responsible for Sewer Charges
HB832, Act 2007-270 – Crenshaw County Probate Judge Recording System
HB833, Act 2007-271 – Crenshaw County Court Costs
HB834, Act 2007-273 – Crenshaw County One-Stop Tag Purchase
HB837, Act 2007-274 – Baldwin County Solicitor’s Fee
HB838, Act 2007-272 – Barbour County Volunteer Fire Departments
HB839, Act 2007-275 – Lawrence County Sales & Use Tax on Motor Vehicles Reduced
HB840, Act 2007-VETOED – Lawrence County Community Development Commission Established
HB841, Act 2007-VETOED – Lauderdale County Community Development Board and Community Development Fund Established
HB842, Act 2007-VETOED – Colbert County Community Development Commission and Community Development Fund established
HB845, Act 2007-375 – Randolph County Sales and Use Tax
HB848, Act 2007-376 – Calhoun County Probate Court Fee for Mental Health
HB850, Act 2007-277 – Pickens County Solicitor’s Fee
HB852, Act 2007-377 – Baldwin County Leasing or Rental Tax
HB867, Act 2007-477 – Lee County Zoning in Unincorporated Areas
HB872, Act 2007-337 – Macon County Revenue Commissioner – Office Budgetary Operation Merged
HB875, Act 2007-479 – Birmingham Self-Help Business Districts
HB880, Act 2007-482 – Shelby County Law Enforcement

Personnel Board
HB884, Act 2007-484 – Pike County Solicitor’s Fee
HB886, Act 2007-484 – Dothan Outdoor Advertising Regulation Without Regard to ALDOT Regulations
HB888, Act 2007-339 – Morgan County TVA Fund Distribution Altered
HB893, Act 2007-486 – Colbert County Lodgings Tax
HB897, Act 2007-340 – Tallapoosa County Traffic Laws in Gated Communities
HB914, Act 2007-343 – Escambia County Court Costs
HB915, Act 2007-378 – Florence Draft or Keg Beer
HB917, Act 2007-490 – Fayette County Solicitor’s Fee
HB919, Act 2007-344 – Clay County Special Revenue Funds
HB923, Act 2007-346 – Wilcox County Ad Valorem Tax
HB924, Act 2007-491 – Morgan County Payments In-Lieu-of-Taxes for Legislative Delegation Office and County General Fund
HB929, Act 2007-347 – Barbour County Ad Valorem Tax
HB931, Act 2007-348 – Cherokee County Indigent Health Care
HB932, Act 2007-349 – Russell County Business Licenses
HB933, Act 2007-350 – Phenix City Ad Valorem Tax
HB936, Act 2007-DIED IN BASKET – Chilton County Revenue Commissioner Office Established
HB939, Act 2007-494 – Wilcox County Ad Valorem Tax
HB943, Act 2007-367 – Bullock County Districts 1 & 2 Ad Valorem Tax Increased
HB945, Act 2007-496 – Mobile County Racetracks – Location of
HB946, Act 2007-497 – Jackson County Lodgings Tax
HB952, Act 2007-498 – Marshall County TVA Payments
HB957, Act 2007-VETOED – Cullman County Community Development Commission and Community Development Fund
HB958, Act 2007-500 – Franklin County Lodgings Tax
HB959, Act 2007-VETOED – Franklin County Community Development Commission and Community Development Fund
HB960, Act 2007-501 – Russellville Civil Service Board
HB961, Act 2007-502 – Tuscumbia Utilities Board
HB963, Act 2007-503 – Birmingham Police & Firefighters Pension Fund Investments

SB31, Act 2007-278 – DeKalb County Pistol Permit Fee Reduced for Seniors
SB49, Act 2007-382 – St. Clair County Additional District Judge
SB182, Act 2007-416 – Mobile – Alcoholic Beverage License Revocation Rules Altered
SB199, Act 2007-VETOED – DeKalb County Community Development Commission and Community Development Fund Established
SB218, Act-387 – Auburn Ad Valorem Tax
SB264, Act 2007-390 – Lowndes County Pistol Permit Fees Increased
SB301, Act 2007-393 – Opelika Ad Valorem Tax
SB308, Act 2007-394 – Lee County Ad Valorem Tax
SB354, Act 2007-398 – Phenix City Ad Valorem Tax
SB371, Act 2007-399 – Lee County Sales & Use Tax Outside Corporate Limits of Auburn, Opelika, and Phenix City
SB372, Act 2007-400 – Lee County Court Costs
SB373, Act 2007-401 – Lee County Zoning Outside Incorporated Areas
SB433, Act 2007-405 – Pike County New Voting Center
SB435, Act 2007-VETOED – Chambers County Probate Judge Fees for Remote Computer Access to Records
SB447, Act 2007-351 – Colbert County Sales and Use Tax
SB450, Act 2007-352 – Lauderdale County Sales and Use Tax
SB452, Act 2007-212 – Shoals Industrial Development Committee
SB458, Act 2007-VETOED – Colbert County Community Development Commission and Community Development Fund
SB486, Act 2007-VETOED – Abandonment of Phenix City Council-Manager Government
SB487, Act 2007-409 – Russell County Planning Commission
SB490, Act 2007-VETOED – Russell County Commission – Vacancies
SB498, Act 2007-412 – Lamar County Solicitor’s Fee
SB500, Act 2007-413 – Franklin County Solicitor’s Fee

Annexation Bills

HB307, Act 2007-219 – Florence
HB410, Act 2007-228 – Somerville
HB551, Act 2007-229 – Orange Beach
HB581, Act 2007-258 – Bay Minette
HB602, Act 2007-259 – Bay Minette
HB603, Act 2007-260 – Bay Minette
HB604, Act 2007-261 – Bay Minette
HB740, Act 2007-267 – Montgomery
HB808, Act 2007-334 – Florence
HB855, Act 2007-476 – Lincoln
HB874, Act 2007-478 – Foley
HB878, Act 2007-480 – Cusseta
HB882, Act 2007-483 – Crossville
HB925, Act 2007-492 – Elberta
HB944, Act 2007-495 – Summerdale
SB334, Act 2007-396 – Helena



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The Legal Viewpoint

By Ken Smith
Deputy Director/General Counsel



2008 Municipal Elections Calendar

Despite the fact that the 2008 municipal elections for most municipalities are still more than a year away, the League has already received a number of requests for information on this subject. As most of those who will be involved in this process are already aware, there have been several significant changes since the 2004 elections. These changes have been precleared by the Justice Department and are now law.

The 2008 municipal elections will be held on Tuesday, August 26, 2008. By the end of summer, the League will publish a special report that details all of the rules and regulations applicable to the municipal election, including the most recent modifications. This article is not intended to provide a detailed examination of the election process. It is, instead, a quick overview for both those who will conduct the election and for candidates of the significant dates and events leading up to and following the municipal election.

What are the changes?

In 2003, the Legislature passed an Act that allowed Alabama municipalities located in the Eastern Time Zone to conduct their elections on Eastern time. In 2006, the Legislature passed Act 2006-281 to provide that local governments operating on Eastern time due to proximity to Georgia can conduct elections on Eastern time. Some Alabama municipalities have numerous residents who work in the Eastern Time Zone and operate on Eastern time to accommodate their residents. This change allows them to conduct their elections on Eastern time to make that consistent with other activities in the municipality.

Act 2006-281, in conjunction with Act 2006-354, also adopts provisional balloting and eliminates challenged balloting in municipal elections. In 2003, the state eliminated challenged balloting procedure as a result of the federal Help America Vote Act (HAVA) requirements. This bill eliminates challenged balloting in municipal elections, replacing it with provisional balloting. Act 2006-281 accomplished this for municipal elections, making the local procedure uniform

with the current process followed in state, federal and county elections. As a result, numerous provisions of existing law relating to challenged ballots were amended or repealed since these procedures do not work when using provisional ballots. For example:

- Changes the date for canvassing the election results to noon, seven days after the election, rather than by noon the day after the election. This allows the board of registrars time to verify provisional ballots and return them to the city.
- Changes the run-off date in municipal elections from the third Tuesday following the regular election to the sixth Tuesday following the election to allow time for counting provisional ballots, getting new supplies and sending absentee ballots to military voters and receiving their votes.
- Changes the time for having absentee ballot supplies ready from seven days following the regular election to 14 days following the regular election to allow seven days to count the provisional ballots.
- Changes the date municipal elected officials take office from the first Monday in October to the first Monday in November to allow time to hold the run-off election and count provisional ballots.
- Act 2006-281 also allows the city clerk to receive notice of proposed rules applying to provisional ballots at least 30 days prior to the certification of the rule or amendment under the Administrative Procedures Act since any future rules changes related to provisional ballots at the state level may also apply in municipal elections.

What can I Do Now?

Although there are no election deadlines looming at the moment, there are a few items that municipal officials and others involved in the election process must deal with now.

continued on page 20

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2008 Municipal Elections Calendar

continued from page 17

For instance, if your municipality must change its district lines, you should begin this process now. It takes time to conduct the necessary studies and debates to ensure that the new lines are sufficient, and to obtain preclearance from the Justice Department.

Also, you should take a look at the annexations and deannexations that your municipality has had over the past four years. Each of these must be precleared by the Justice Department as well. If you have expanded or decreased your corporate limits through any method of annexation or deannexation, you must be sure that these have been precleared. Otherwise, citizens in these areas will not be allowed to run for office or vote.

For example, in *Singer v. City of Alabaster*, 821 So.2d 954 (Ala. 2001), the Alabama Supreme Court held that state courts lack jurisdiction over municipal election contests by voters whose votes are not counted because the Justice Department refused to preclear their annexations. These votes may not be included in election totals until the annexations are precleared. For information about

how to preclear election changes, please see the article "Preclearance of Election Changes Under the Voting Rights Act" on page 354 of the *Selected Readings for the Municipal Official*.

You may want to examine the salary structure for your elected officials as well, not just to see if the salaries and benefits need to be adjusted, but to see if there is a need to change the method of payment as well. Some municipalities like to pay their officials monthly, while others pay on a biweekly basis. Some municipalities have been very successful in encouraging members to attend meetings by tying salary payments to meetings their members actually attend. Of course, if you decide to do this, then you should place a limit on the number of meetings for which the members will be paid.

The municipality may want to look at these and other issues related to the election now and plan in advance for any changes that are needed. The League hopes the calendar provided in this issue of *The Alabama Municipal Journal* will prove useful to you for this purpose. ■



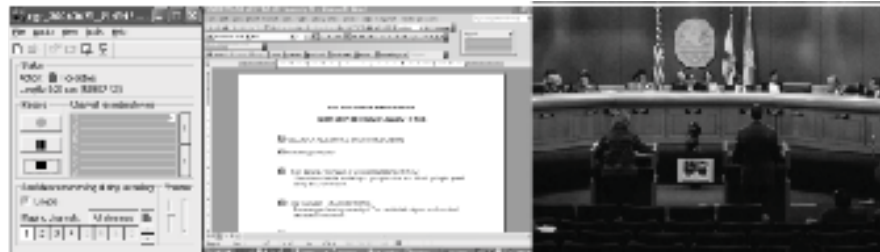
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LEGAL CLEARINGHOUSE

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

ALABAMA COURT DECISIONS

Alcoholic Beverages – Licenses: Alabama municipalities are accorded broad discretion when reviewing a liquor-license application. A nightclub’s compliance with all applicable laws, codes and regulations did not automatically warrant the issuance of a liquor license to the nightclub and the city council had discretion to deny the license as long as it was not done arbitrarily and capriciously. To prove that a municipality’s decision to approve or disapprove a liquor license was arbitrary and capricious, the burden is on the claimant to show that there was no reasonable justification supporting the municipality’s decision. *Phase II, LLC v. City of Huntsville*, 952 So.2d 1115 (Ala.,2006)

Search and Seizure: A police officer lacked reasonable suspicion of defendant’s involvement in criminal activity to justify further detention for investigatory purposes after a traffic citation had been issued. The citation was issued within 20 minutes after the initial stop, and the defendant’s refusal to consent to a search could not have supplied reasonable suspicion. In this case, the defendant was stopped about 7:30 p.m. for “no tag light” and the officer acknowledged that he had no belief the defendant was involved in any criminal activity. The second officer indicated he believed the defendant had at some time been involved with drugs but this did not supply an objective basis for detention, thus defendant was unlawfully detained after being issued vehicle citation. *Smith v. State*, 953 So.2d 445 (Ala.Crim.App.,2006)

UNITED STATES COURT DECISIONS

Tort Liability – Sexual Harassment: The police chief and other officials responsible for a female police officer’s termination were entitled to qualified immunity in the officer’s First Amendment retaliation action alleging she was terminated because of a 13-page letter she wrote to the police chief complaining of sexual harassment and multiple other personal grievances. The officer’s right not to be fired because of the letter was not clearly established. In light of conflicting case law about when sexual harassment complaints amounted to matters of public concern, a reasonable official would not have known that the long letter, which focused overwhelmingly on personal grievances and vague gripes about fellow officers not being nice to her, touched on matters of public concern protected by the First Amendment. *Campbell v. Galloway*, 483 F.3d 258, [C.A.4 (N.C.), 2007]

Tracy Roberts
Assistant General Counsel



Schools: The U.S. Supreme Court resolved a circuit split in determining parents of disabled students may go to court pro se to press not only procedural claims under the Individuals with Disabilities Education Act but also substantive statutory violations. *Winkelman ex rel. Winkelman v. Parma City School Dist.*, 127 S.Ct. 1994, (U.S. 2007)

DECISIONS FROM OTHER JURISDICTIONS

Criminal Law: Police detectives who, in a letter, posed as lawyers soliciting clients in order to trick a murder suspect into sealing a return envelope with his saliva containing DNA violated neither the attorney-client privilege nor state or federal constitutional protections of privacy because the sample collected was not considered a communication. *State v. Athan*, --- P.3d ----, --- P.3d ----, 2007 WL 1365301, (Wash., 2007)

First Amendment: The First Amendment freedom of expression rights of nude dancers at an adult entertainment establishment were violated by an ordinance criminalizing the “fondling, stroking or rubbing of human genitals or anus.” While the regulation furthered the important governmental interest in curbing undesirable secondary effects associated with adult entertainment businesses, the ordinance directly targeted the movements dancers could employ, making it directly related to the suppression of free expression. Moreover, the restriction was greater than required to support the government’s regulation of secondary effects. *Rameses, Inc. v. County of Orange*, 2007 WL 1095442 (M.D.Fla.)

ATTORNEY GENERAL’S OPINIONS

Boards: Section 11-54-170, et seq., of the Code of Alabama governs the appointment of persons to the Commercial Development Authority regardless of the municipality class to which an entity belongs. Because a city councilmember is an officer of the municipality, a member of the Bessemer City Council may not continue to serve as a member of the board of directors of the Commercial Development Authority in the City of Bessemer. 2007-098 and 2007-099

Elections: The phrase “last general election of the municipality,” as used in Act 2006-380 refers to the regularly scheduled general municipal election, which for most cities is held on the fourth Tuesday in August, as opposed to the general election for state officials, which is held on the first Tuesday after the first Monday in November. Since only one person filed a statement of candidacy for each municipal office in 2004, the last general election for the city of Thomasville occurred in August 2000. 2007-088. **Note: Act 2006-380 provides for a municipal option election to determine whether legal sale and distribution of alcoholic beverages, including draft beer, shall be permitted in Clarke County municipalities.**

Public Works: Painting contracts of \$50,000 or less qualify as “public works” under section 39-2-2(b) of the Code of Alabama and may be let with or without advertising or sealed bids. 2007-089 ■

2008 MUNICIPAL ELECTIONS CALENDAR

(All citations are to the Code of Alabama, 1975)

DISCLAIMER: This election calendar is provided as a service to candidates running in the general municipal election and those officials responsible for conducting the municipal election to be held on August 26, 2008, with a run-off on October 7, 2008, if necessary. *Use of this calendar is at the sole risk of the candidate. It is the responsibility of the candidate or official to verify the dates on which forms are due.* The Alabama League of Municipalities and the municipality and/or official that may distribute this form disclaim any responsibility or liability for failure to comply with any filing requirement or any other election law.

In most cases, the dates printed in this publication represent the final deadline for performing the listed duties. The League urges officials and candidates to accomplish these duties well in advance of the deadline.

Electronic Voting Rule – Ordinance establishing the use of electronic vote counters must be adopted. No deadline is set, but the ordinance must be adopted far enough in advance to meet other election deadlines. §17-24-3 [§17-7-21].

NOTE – At the time this calendar was prepared, Act 2006-570, which made substantial changes to Alabama's election laws, including renumbering many Code provisions, was not precleared. Therefore, both the old and new Code provisions are cited. New Code provisions are underlined.

References are to dates in the year 2008 unless otherwise indicated.

August 26, 2007: First day candidates for municipal elections can begin to raise money. §17-22A-7(b)(2) [§17-5-7(b)(2)]. Under general law, there is no limitation on the amount an individual may contribute to the campaign of a person running for municipal office. However, a corporation is limited to giving \$500 per candidate per election. §§10-2A-70.1 and 10-2A-70.2.

February 26, 2008: Last day for the council to change the salaries for officials who will be elected in August. §§11-43-2 and 11-43-80. Last day for the council to decide whether to elect councilmembers at large or from districts. §§11-43-2 and 11-43-63. Last day for the council in municipalities with a population of less than 10,000 according to the most recent decennial census to provide for a procedure for the appointment of additional election officials to receive, count, and return the absentee ballots cast at the election. §§ 11-46-27, 17-10-10, 17-10-11 [§§17-11-10, 17-11-11].

March 31: Last day for councils elected at large to number the places for election purposes. §11-46-22.

May 26: Last day for the council to change its district lines. §11-46-23. Last day for the council to change the location of designated voting places or add an additional voting place.

May 28: Last day a person can become a resident of the municipality and district and still be a candidate for election. Candidates must reside in the municipality and the district for a period of 90 days before the election. §11-46-25(g); §11-43-63.

June 27: A municipality operating on Eastern Standard Time may by ordinance open and close the polls under Eastern Standard Time if necessary. Changing to or from Eastern Standard Time would necessitate pre-clearance at least 60 days prior to the election. §11-46-28.

Electronic Voting Rule – First day to conduct a training school for officials who will conduct an election using electronic voting machines. §17-9-19 [§17-8-9]. No election official shall serve in any election in which an electronic voting machine is used, unless he or she shall have received such instruction within 60 days prior to the election and is fully qualified to perform the duties in connection with the electronic voting machine, and has received a certificate from the authorized instructor to that effect. This does not prevent the appointment of an uninstructed person as an election official to fill a vacancy among the election officials. IT IS UNCLEAR THAT THIS PROVISION APPLIES TO MUNICIPAL ELECTIONS. HOWEVER, THE LEAGUE RECOMMENDS THAT MUNICIPAL GOVERNMENTS USING ELECTRONIC VOTING MACHINES FOLLOW THIS PROCEDURE.

June 26: Last day on which the council may adopt an ordinance establishing qualification fees. §11-46-2.

July 1: Mayor gives notice of the election on the first Tuesday in July. §11-46-22(a). Candidates may begin qualifying once notice is published. Qualifying forms are available from the municipal clerk. §11-46-22(a).

NOTE: The Fair Campaign Practices Act requires all candidates to file with the PROBATE JUDGE a list of from two to five persons who will serve as their campaign committee. Candidates may serve as their own committee, but must still file a form to this effect with the PROBATE JUDGE. **THIS FORM MUST BE FILED WITHIN FIVE (5) DAYS OF QUALIFYING TO RUN FOR OFFICE.** **THIS FORM MUST BE FILED REGARDLESS OF WHETHER THE CANDIDATE HAS REACHED THE \$1,000 THRESHOLD UNDER THE FAIR CAMPAIGN PRACTICES ACT.** Forms are available from the probate judge, Secretary of State or the municipal clerk. §17-22A-4 [§17-5-4].

ALSO, the Ethics Law requires candidates to file a statement of economic interests with the MUNICIPAL CLERK. **THIS STATEMENT MUST BE FILED ALONG WITH THE QUALIFYING FORM.** A candidate for municipal office may request a five day extension to file the statement of economic interests. The request must be made through the MUNICIPAL CLERK. The statement of economic interests must be filed with the MUNICIPAL CLERK within the five day extension. **THE CLERK IS REQUIRED TO REMOVE FROM THE BALLOT THE NAME OF ANY CANDIDATE WHO FAILS TO FILE THE STATEMENT OF ECONOMIC INTERESTS BY THE DEADLINE.** Incumbents do not have to file the statement of economic interests as they are required to submit an annual report which is on file with the ETHICS COMMISSION. §36-25-15.

July 9: First day to file the 45 - 50 day pre-election campaign disclosure form with the PROBATE JUDGE. Forms are available from the probate judge, the Secretary of State, or the municipal clerk. If the candidate has not raised or spent at least \$1,000, no disclosure report is due. §17-22A-8(a)(1) [§17-5-8(a)(1)].

July 14: Last day to file the 45 - 50 day pre-election campaign disclosure form with the PROBATE JUDGE. Forms are available from the probate judge, the Secretary of State, or the municipal clerk. If the candidate has not raised or spent at least \$1,000, no disclosure report is due. §17-22A-8(a)(1) [§17-5-8(a)(1)].

July 15: Last day to qualify to run for municipal office. The qualifying form must be filed by 5:00 p.m., Central Daylight Time, with the MUNICIPAL CLERK. Forms are available from the clerk. §11-46-25(g). Mayor must cause the printing of the ballots. §11-46-25. Mayor must file a list of qualified voters with the clerk. If the mayor is a candidate in the election, the council must appoint a qualified person to perform this duty. Sections 11-46-36 and 11-46-37.

July 21: Last possible day for candidates to file with the PROBATE JUDGE a statement showing the names of their campaign committee. §17-22A-4 [§17-5-4]. Last day for the clerk to forward statements of economic interests filed by candidates to the Ethics Commission. §36-25-15.

July 22: Mayor must file a list of qualified voters with the absentee election manager. §17-10-5 [§17-11-5]. Last day for the mayor (or other person assigned to this duty) to deliver absentee ballots and supplies to the clerk. §17-10-12 [§17-5-12]. **NOTE:** §11-46-32 requires the mayor to provide absentee supplies no later than 21 days before the election. The provision in Title 17 is a more recently adopted provision and should be followed instead.

July 27: Last day to place a voting machine on display. §11-46-31. Last day for sample of the ballot or vote card to be placed on display in municipalities using vote tabulators that require voters to fill out a card or paper ballot to be read by the tabulator. §11-46-31.

August 11: Last day for the council to appoint election officials. **NOTE:** The clerk must notify the persons chosen as election officials and must hold an election school for them. The clerk must notify the official at least 48 hours before the school is scheduled. §§11-46-27 and 11-46-30.

August 12: Electronic Voting Rule – First day to test electronic vote counters. The test must be conducted as close as practicable to the date of the election. The test is open to the public. Forty-eight (48) hours notice of the test must be given. Rule 307-X-1-.04; 17-24-9(a).

August 15: First day to file the 5 - 10 day pre-election campaign disclosure form with the PROBATE JUDGE. Forms are available from the probate judge, the Secretary of State, or the municipal clerk. §17-22A-8(a)(1) [§17-5-8(a)(1)].

August 16: Last day for the mayor to publish lists of the election officers and the voting places to which they are assigned. Section 11-46-27.

August 21: Last day for a voter to apply for a regular absentee ballot. §17-10-3(a) [§17-11-3(a)]. Last day to file the 5 - 10 day pre-election campaign disclosure form with the PROBATE JUDGE. §17-22A 8(a)(1) [§17-5-8(a)(1)]. Last day to publish the list of qualified voters. §11-46-36.

Electronic Voting Rule – Last day to conduct a training school for officials who will conduct an election using electronic voting machines. §17-9-19 [§17-8-9]. IT IS UNCLEAR THAT THIS PROVISION APPLIES TO MUNICIPAL ELECTIONS. HOWEVER, THE LEAGUE RECOMMENDS THAT MUNICIPAL GOVERNMENTS USING ELECTRONIC VOTING MACHINES FOLLOW THIS PROCEDURE.

August 25: Last day for an absentee voter who is required to provide identification but failed to include it with the ballot to submit this identification by 5:00 p.m. to prevent the ballot from becoming a provisional ballot. §17-10A-2(c)(1)(a). [17-10-2(c)(1)(a)]. Last day for a voter to apply for an emergency absentee ballot if he or she is required by his or her employer to be out of the country on election day. §17-10-12 (c) [17-11-3(d)]. The clerk, along with two watchers, must inspect and seal voting machines which will be used in the election. §11-46-33. If an absentee ballot is returned by mail, it must be postmarked by August 25. The deadline for hand-delivery of absentee ballots is 5:00 p.m. on August 25. §17-10-23 [§17-11-18].

August 26: Election Day. Regular municipal elections are held on the fourth Tuesday in August. §11-46-2. Candidates may appoint a poll watcher to observe voting procedures in the polling place. The appointment must be made in writing, signed by the candidate, and filed with the election officials at the polling place. §11-46-35. **NOTE:** Section 11-46-28 provides that the polls be open from 7:00 a.m. to 7:00 p.m. and that a municipality may set those times under Eastern Standard Time if necessary. Changing to or from Eastern Standard Time would necessitate preclearance at least 60 days prior to the election. (June 27, 2008).

Electronic Voting Rule – Precinct counters must be tested according to the manufacturer’s instructions to ensure that they are set at zero and to prepared for voting. Rules 307-X-1-11. Deadline for returning absentee ballots by mail or an emergency absentee ballot for a registered voter who requires emergency treatment by a licensed physician within 5 days of the election is 12:00 noon on August 26. §§17-10-23; 17-10-12(b) [§17-11-18]. Election officials must meet at their respective polling places at least 30 minutes before polls open. §11-46-28. The clerk must ensure that all ballots, boxes and supplies are provided at each polling place, or if machines are used, that proper supplies are provided at each polling place. §11-46-33.

August 27: Deadline for the absentee election manager to notify voters whose absentee ballots have become provisional due to the inspector’s personal knowledge that voter was not eligible to vote. §17-10A-2(c)(3)(b). [17-10-2(c)(3)(b)]. Municipal clerk must deliver the written affirmations of the provisional voters, inspector challenge statements, and all voter reidentification forms in a sealed envelope addressed to the board of registrars to the board of registrars no later than noon.

August 29: Last day for an absentee voter who was required to provide identification but failed to provide it before the election to submit identification to the board of registrars in order to have the vote counted. §17-10A-2(c)(1)(c). [17-10-2(c)(1)(c)].

September 2: The council must canvass the election results before 12:00 Noon. §§11-46-46 and 11-46-55. If a candidate receives a majority of the votes cast for the office, the council issues a certificate of election. If no candidate receives a majority, the council shall order a run-off election to be held. **ANYONE WITH STANDING TO CONTEST THE ELECTION MAY REQUEST A RECOUNT WITHIN FORTY-EIGHT HOURS OF THE OFFICIAL CANVASS OF THE ELECTION RESULTS.** §11-46-55.1.

September 8: Last day a candidate may contest the results of the general election. §11-46-69.

September 9: Last day for the mayor (or other person assigned to this duty) to deliver absentee ballots and supplies to the clerk for the run-off election. §17-10-12 [§17-11-12].

September 23: Electronic Voting Rule – First day to test electronic vote counters for the run-off election. The test must be conducted as close as practicable to the date of the election. The test is open to the public. Forty-eight (48) hours notice of the test must be given. Rule 307-X-1-.04.

September 26: First day to file the 5-10 day pre-election campaign disclosure report with the PROBATE JUDGE. Forms are available from the probate judge, Secretary of State and the municipal clerk. §17-22A-8(a)(1) [§17-22A-8(a)(1)].

October 2: Last day for a voter to apply for a regular absentee ballot. §17-10-3(a) [§17-11-3(a)]. Last day to file the 5-10 day pre-election campaign disclosure report with the PROBATE JUDGE. §17-22A-8(a)(1) [§17-5-8(a)(1)].

October 6: Last day for an absentee voter who is required to provide identification but failed to include it with the ballot to submit this identification by 5:00 p.m. to prevent the ballot from becoming a provisional ballot. §17-10A-2(c)(1)(a). [~~17-10-2(c)(1)(a)~~]. Last day for a voter to apply for an emergency absentee ballot if he or she is required by his or her employer to be out of the country on election day. §17-10-12(c) [~~17-11-3(d)~~]. The clerk, along with two watchers, must inspect and seal voting machines which will be used in the election. §11-46-33. If an absentee ballot is returned by mail, it must be postmarked by October 6. The deadline for hand-delivery of absentee ballots is 5:00 p.m. on October 6. §17-10-23 [~~17-11-18~~].

October 7: Run-off Election Day. Candidates may appoint a poll watcher to observe voting procedures in the polling place. The appointment must be made in writing, signed by the candidate, and filed with the election officials at the polling place. §11-46-35.

Electronic Voting Rule – Precinct counters must be tested according to the manufacturer’s instructions to ensure that they are set at zero and to prepared for voting. Rules 307-X-1-.11. Deadline for returning absentee ballots by mail or an emergency absentee ballot for a registered voter who requires emergency treatment by a licensed physician within 5 days of the election is 12:00 noon on August 26. §§17-10-23; 17-10-12(b) [~~17-11-18~~].

October 8: Deadline for the absentee election manager to notify voters whose absentee ballots have become provisional due to the inspector’s personal knowledge that voter was not eligible to vote. §17-10A-2(c)(3)(b). [~~17-10-2(c)(3)(b)~~]. Municipal clerk must deliver the written affirmations of the provisional voters, inspector challenge statements, and all voter reidentification forms in a sealed envelope addressed to the board of registrars to the board of registrars no later than noon.

October 10: Last day for an absentee voter who was required to provide identification but failed to provide it before the election to submit identification to the board of registrars in order to have the vote counted. §17-10A-2(c)(1)(c). [~~17-10-2(c)(1)(c)~~].

October 14: The council must canvass the election results before 12:00 Noon. §§11-46-46; 11-46-55. **ANYONE WITH STANDING TO CONTEST THE ELECTION MAY REQUEST A RECOUNT WITHIN FORTY-EIGHT HOURS OF THE OFFICIAL CANVASS OF THE ELECTION RESULTS.** §11-46-55.1.

October 20: Last day a candidate may contest the results of the run-off election. §11-46-69.

November 3: Newly elected municipal officials take office on the first Monday in November following the election. §11-46-21(c). Council meets for its organizational session. §11-43-44.

December 24: Last day for candidates who were not involved in the run-off election to raise money to pay off their campaign debts. §17-22A-7(b)(3) [~~17-5-7~~].

February 4, 2009: Last day for candidates who were involved in the run-off election to raise money to pay off their campaign debts. §17-22A-7(b)(3) [~~17-5-7~~]. All political advertisements must be clearly marked with a statement that the communication is a paid political advertisement. This statement must contain information which adequately identifies the person or committee that paid for or authorized the ad. §17-22A-12 [~~17-5-12~~].

NOTE: Candidates who are not elected should dissolve their campaign committees by filing a form with the PROBATE JUDGE. The Fair Campaign Practices Act requires all candidates who fail to dissolve their campaign committees to file an annual report listing all contributions or expenditures with the probate judge. Forms are available from the probate judge, the Secretary of State, or the municipal clerk.

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Profiles of the League's President and Vice President



On Tuesday, April 24, Mayor Charles W. “Sonny” Penhale of Helena was elected League president during the League’s General Business Session. Penhale, who was League vice president under Mayor Lew Watson of Lincoln from 2006 to 2007, was first elected to municipal office in 1960 and has served his community as an elected official for more than 40 years.

Penhale followed in the footsteps of his grandfather, Charles Iverson Hinds, Helena’s first mayor after re-incorporating as a municipality in 1917, when he was elected mayor in 1968. Over the past 40 years, he has seen Helena grow from a town of 870 residents to a city of more than 10,000. Under his administration, the then-one-mile radius that comprised the town limits has grown to include roughly 1,100 acres of zoned land.

Through Penhale’s leadership, Helena was one of the first cities in Shelby County to install a sanitary sewer system. A recent two-million-dollar expansion of the system, offset by a more than one-million-dollar federal grant and a low-interest loan the mayor secured, will enable Helena to continue to see strong growth in the near future. The mayor has also obtained grants to build two city parks, a library, to expand the city water system and to improve the city’s streets.

During the Korean War, Penhale was drafted into the U.S. Army, spending time stationed at Fort Mead, Maryland, and Camp Pickett, Virginia. Until only recently, he was a part-time mayor, also working as a foreman at American Cast Iron and Pipe Co. from 5 a.m. until 2 p.m., after which he would run home, shower and be quickly off to city hall to carry out the city’s business.

Penhale, who has earned both his Basic and Advanced CMO designations, serves on the League’s Executive Committee as well as the League’s Human Development Committee and the Committee on State and Federal Legislation. He is a member of the Greater Shelby County Chamber of Commerce, the Birmingham Regional Planning Commission and is a lifelong member of the Helena United Methodist Church.

Penhale said the Alabama League is “the number one league in the nation,” and it is an honor to be elected

president. He is proud of the organization and its staff: “No matter what the issue, the League staff stands prepared to do what is necessary to promote and protect our municipalities. They are always professional and polite and we as elected officials couldn’t ask for a more dedicated or more dynamic resource than our staff headquartered in Montgomery.”

The same day Sonny Penhale was elected League president, Mayor Melvin Duran of Priceville became vice president of the League for 2007-2008. Duran, who was elected to the town council in 1980 and then mayor in 1986, said he is “elated to have the opportunity (to be League vice president) and it’s a real honor, particularly being from a small city.”

Located in Morgan County, Priceville’s population as of the 2000 Census was 1,631. According to Duran, the area has experienced significant growth in recent years, reaching a population of more than 2,200. He cites the addition of a sewer system in the early 1990s and establishing an area high school as two direct factors in that growth.



“I have been fortunate over the years to have good city council people who have had a good vision of what Priceville needed to be,” Duran said. “We’re a bedroom community to Huntsville, Madison and Decatur and that’s what we want to be – a bedroom community. We probably could have grown faster than what we’ve done, but the council and I felt like we needed to be careful not to outgrow our infrastructure.”

Duran has been an active participant with the League and currently serves on the League’s Executive Committee as well as the Committee on Transportation, Public Safety and Communication. He is a member of the Board of Directors for the Alabama Municipal Insurance Corporation and has attended numerous meetings held by the National League of Cities. In addition, he has completed both the Basic and Advanced CMO programs through the League.

A practicing EMT, Duran has been a volunteer firefighter since 1980. He served three terms as president of the Priceville Civitans and has been vice president and president of the North Alabama Mayors Association. He retired from the Solutia Chemical Company in 2001 where he’d worked since 1965. ■

Municipal Photos Wanted

Get your cameras ready!

The Alabama League of Municipalities is holding a photo contest! The First Place winning photo will be featured on the cover of the 2008 Annual Directory! Other honorable mention photos will be used in the *Alabama Municipal Journal* throughout 2008.



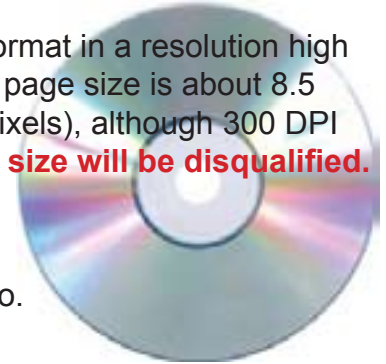
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To Enter:

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

Photo Format:

Entries should be **vertical**, color images and submitted in JPEG or TIFF format in a resolution high enough for print quality purposes. Photos must be submitted on a cd. The page size is about 8.5 x 11 and the image should be at least 150 dpi at this size (1,200 x 1,500 pixels), although 300 DPI (1800x1200 pixels) is preferred. **Submissions that are not print-quality size will be disqualified.**



Return of Photos

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

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ALL ENTRIES MUST BE SUBMITTED BY NOVEMBER 16, 2007

Mail to: Alabama League of Municipalities
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