

THE ALABAMA MUNICIPAL **JOURNAL**

September 2006

Volume 64, Number 3

Congratulations CMO Graduates!

See story, page 24



2006 Advanced CMO Graduates

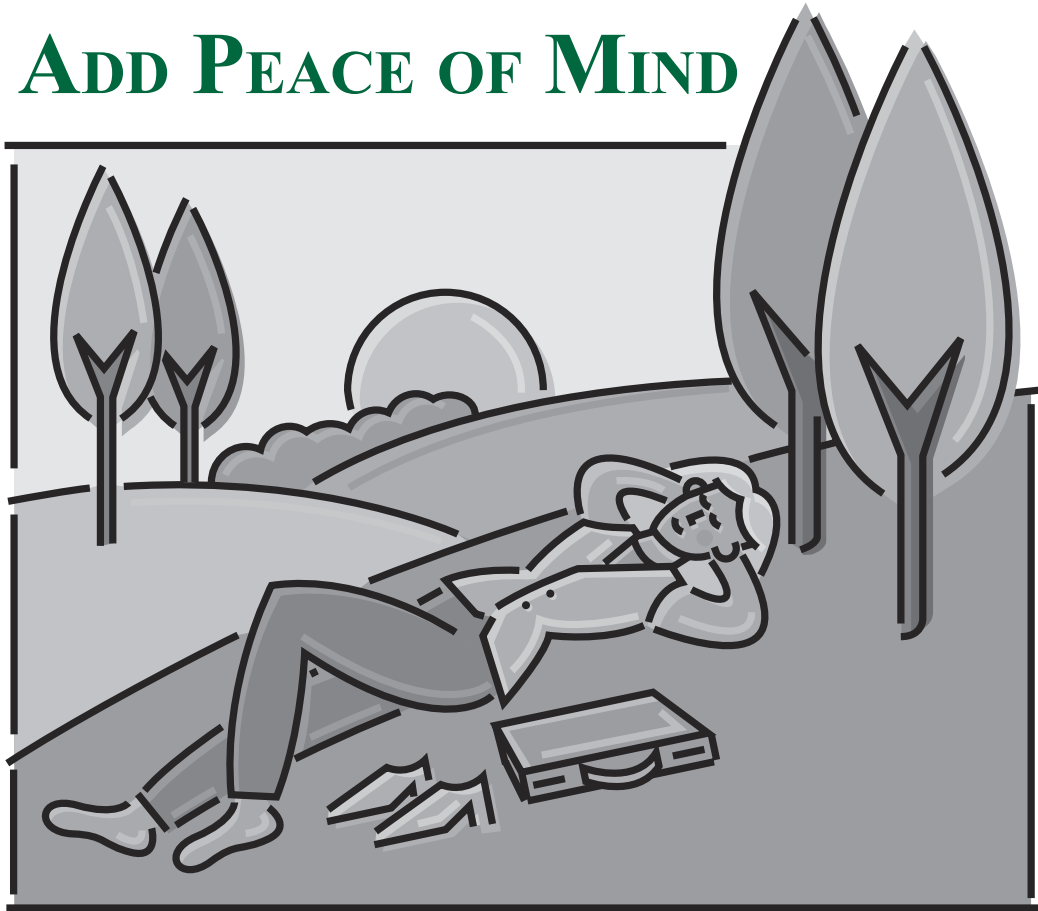


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THE ALABAMA MUNICIPAL JOURNAL

Official Publication, Alabama League of Municipalities

September 2006 • Volume 64, Number 3

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

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Hueytown City Clerk, Janice Wilhite, Named Clerk of the Year

Special to *The Alabama Municipal Journal*

Everyone who works at Hueytown City Hall knows how competent and professional the city clerk is. Now the entire state knows about Janice Wilhite.

In April, Jefferson County District XIII of the Alabama Association of Municipal Clerks named Wilhite as their Clerk of the Year. District XIII includes 37 cities in Jefferson County. Janice was presented with a very nice plaque during their district meeting held April 26. That win made her eligible to compete at the state level. During the Alabama Association of Municipal Clerks & Administrators' annual convention June 16-17, Wilhite was named State Municipal Clerk of the Year.

"It is a true honor for me to receive this prestigious award from the Alabama Association of Municipal Clerks & Administrators," Wilhite said. "I am very excited and thankful."

Wilhite began her public service in June 1967 when she was employed by the Jefferson County Health Department, Finance Division. In 1968, she accepted a stenographer position at Fairfield City Hall. Over the course of 23 years, she continued her education and training and received several promotions. In 1989, she became the acting city clerk of Fairfield. On April 16, 1990, Wilhite accepted the position of city clerk and treasurer for the city of Hueytown, where she remains today. She served on the Personnel Advisory Council to the Jefferson County Personnel Board from 1981 through 1987.

Wilhite completed all of the requirements of the Certification Training Institute for Municipal Clerks held at the University of Alabama, and received the designation of



Janice Wilhite stands in front of a wall of accomplishments and proudly shows off her awards as Clerk of the Year on both the county and state level.

Certified Municipal Clerk (CMC) on April 19, 1991, from the International Institute of Municipal Clerks. She was presented the Distinguished Service Award in 1991 in recognition of outstanding performance in promoting the aim and objectives of the Alabama League of Municipalities.

Wilhite continued to garner awards throughout her career. She said she wants to be an ambassador for city clerks. "As the Alabama Municipal Clerk of the Year 2006 I will take this opportunity to promote the profession of city clerk."

In her capacity as Hueytown City Clerk, Wilhite serves as city treasurer, city purchasing agent, city personnel officer, municipal

revenue officer and department head of the Administration and Revenue Division. ■

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The President's Report

Lew Watson
Mayor of Lincoln

Enhancing Revenue

During the past several months I have written on the primary revenues sources utilized by our municipalities. Most of our municipalities have fewer than 2,500 residents, so in these articles have tended to be oriented in that direction. The information found here may be beneficial to officials in their first term as well.

To recap last month's information on sales tax -check your sales tax ordinance. Your community should be collecting on a sales and use tax ordinance, not on a gross receipts ordinance. If some of the other taxes are not being collected this might be a good time to consider including those sources of revenue. Changing the ordinance your community uses to collect taxes is the next step. How you go about changing the ordinance depends on how the tax is being collected. If you utilize the Alabama Department of Revenue or a private collection company for your tax collections, contact them and they will provide the ordinance for collection of the tax.

Something that I have not touched on that goes along with revenue is the Alabama Municipal Revenue Officers' Association (AMROA). The association was formed to assist its member communities in all aspects of municipal revenue. The need for a municipal revenue officer organization was recognized in the late '60s and the program got off the ground in the early '70s. Most of the early meetings were attended by only a small number of cities, but today nearly 100 cities are members.

The organization is an excellent source of revenue information and you don't have to be a revenue officer to attend the meetings. If your city does not have a municipal revenue officer, the job is most likely being performed by the city clerk or the mayor. If you are a mayor or council member, you are welcome to attend the meetings. Having

personally attended, I can attest to that fact. Information on AMROA is readily available on their web site, www.amroa.org.

There are two other sources of revenue worthy of discussion. The first is our own League. Our League administers the Municipal Revenue Service, whose purpose is to collect delinquent insurance licenses. If you are not using this service, you are most likely missing out on some uncollected revenue. As this is money that would have been lost to the city, it is, in affect, free money. This service has been available since 1942 and the League has more information on it.

The second source is using the services of a private collection firm. The one most of us are familiar with is AlaTax. They offer an excellent means of identifying potential loss of revenues in sales taxes and business licenses. Information on AlaTax is available on their web site, www.alatax.com.

In addition to the collection of revenue, annexations may become an income source for a municipality. With each annexation, a copy should be sent to each of the utilities providing service to citizens in the area. Without notice of the annexation, the utility company cannot code the customers for the payment of the license for each year.

Another part of revenue collection is auditing. Almost every aspect of municipal revenue should be considered for auditing; to name a few, gasoline taxes, business licenses, sales taxes, tobacco taxes, property taxes and so on. Our experience with auditing has been very positive. In particular, we requested an audit of our license fees with Alabama Power Company. I could not have been more pleased with the company's response. They provided detailed information as to the customer coverage area and were quick in including recent annexations into their information for the payment of license fees. I mention this because the electric service provider is one of the primary sources of business license income for most cities.

In conclusion, consider joining AMROA if neither you nor your revenue officer is a member. Business license ordinances should be adopted before December to allow sufficient time to mail out the license renewals. Mail annexations to your utility providers if you have not done so. And, as always, call me or the League if you have any questions. ■

Clerks' Organizations Serve as Support, Sounding Board

By Niko Corley, Communications Coordinator

A city clerk's typical day is atypical. Depending on the size of a municipality and the size of its budget and staff, a clerk's duties can run the gamut, including everything from payroll and the processing of claims to handling accounts or sorting through large piles of city mail. Regardless of a municipality's size, however, most clerks handle the monumental task of managing the day-to-day business of the city council. In many instances, with clerks taking minutes, providing copies of vital paperwork and making sure the council has everything it needs to do its job, a city clerk must take on a parenting role.

"They don't call me Mother Morgan for nothing," Glenda Morgan, Mobile city clerk, said.

But the average citizen has no idea of the complexity of the position, so for them the city clerk is just another person they have to go through to pay a bill, apply for a license or get a copy of a resolution or ordinance.

"Most people think I really don't do anything, that we drink coffee and have a social gathering," Jolaine Reynolds, Cottonwood's city clerk, said.

But city clerks are responsible for a long list of duties outside of the public's view and, often, this list continues to grow along with their municipalities. Charlene Rabren, city clerk for Pike Road, says since the municipality was incorporated in 1997, her work volume has increased five-fold. A fourth generation Pike Road-area resident, Rabren was the only employee in the 300-citizen municipality for many years and began working for the city from her home as a volunteer. Between the heavy work load and the absence of a city hall early on, sometimes the line between city clerk and citizen blurred.

"The newspaper would do stories about people coming to my house to get a business license and also getting a piece of pie," Rabren said.

What really helped her carry out her duties, from the city's incorporation to this day, are two organizations designed specifically to support municipal clerks: the International Institute of Municipal Clerks (IIMC) and the Alabama Association of Municipal Clerks and Administrators (AAMCA). Through these organizations, clerks from all sizes of municipalities in Alabama attend training courses and utilize email lists for bouncing ideas around to help them keep their cities running as smoothly as possible.

Rabren considers the clerks' network "one of the most valuable tools" she has at her disposal. In order to keep

abreast of the most current information and to conduct municipal business as effectively as possible, clerks often turn to one another for guidance and information, and both the IIMC and the AAMCA provide clerks that opportunity in a number of ways.

"It's great to be able to look at questions other people had and ask [your own] questions without having to call the League three times a day," Rabren said.

Clerks, in many respects, are the gatekeepers of information for their municipalities, able to connect people with the data and resources they need. They are linked, in some way, to all aspects of municipal government and affairs and are essential to a city's effective operation.

"City government is like a wagon wheel where the clerk is the hub and city departments are the spokes," Morgan said.

For some municipalities, however, the costs of membership for their clerks in the clerks' organizations and the expenses incurred from traveling to and attending meetings make some mayors and councils question the usefulness and necessity of these expenditures. Fortunately, though, most realize just how vital a well trained clerk is to the municipality and are supportive of membership in these groups. The benefits for their cities far outweigh the costs of membership and travel and may, in the long run, prove to keep their cities out of lawsuits as well as help them identify new sources of revenue.

"I don't think they realize how important training is," Reynolds said. "You always learn something new at meetings."

Cottonwood mayor Lomax Smith supports Reynolds, his city's clerk, in her attendance of clerks' functions and likened it to his own attendance of Certified Municipal Official (CMO) training sessions, which he says are great learning environments.

"My philosophy is, when you go to meetings ... you can interact with other clerks having the same problems," Smith said. "You attend the classes you need to and bring something back with you."

Much like the CMO program for mayors and councilmembers, the IIMC and AAMCA provide education in several areas, including management and leadership, technical training and community and interpersonal issues – areas Tommy Pow, program manager for the College of Continuing Studies at the University of Alabama, which holds

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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

Organizational Meeting of the Executive Committee

The organizational meeting of the Executive Committee of the Alabama League of Municipalities was held at League headquarters on July 20, 2006.

The League's president, Mayor Lew Watson of Lincoln, said he was pleased to see everyone and looked forward to a good year. He thanked Mayor Bobby Hayes of Pelham for the great job he did as last year's League president. He then called on Mayor Sonny Penhale of Helena, who thanked everyone for honoring him by electing him as vice president. He promised to do his best in fulfilling the duties of the job.

It was my pleasure to announce the new members of the committee who were elected to serve at the annual convention in Mobile – Mayor Sam Jones, Mobile; Mayor Tim Kant, Fairhope; Councilmember Bill Stewart, Gadsden; Councilmember Lee Garrison, Tuscaloosa; and Mayor James Perkins, Selma.

It was reported that dues notices for the League's Sept. 1, 2006 – Aug. 31, 2007 Fiscal Year were just mailed. As of the date of the meeting, the League had 443 member cities and towns out of the 460 municipalities in the state. One new municipality has been incorporated – Magnolia Springs in Baldwin County. Members were encouraged to contact any nonmembers in their areas and recommend they join the League.

The NLC Congressional City Conference, which was held in Washington, D.C., was a very successful meeting. Approximately 300 Alabama officials attended. Both Senators Richard Shelby and Jeff Sessions attended our Wednesday morning breakfast and our Monday evening district congressional dinners seemed to go well.

The Southern Municipal Conference (SMC) Membership Meeting was held in Charleston, S.C., in late April. Mayor Bobby Payne of Tallassee is the Immediate Past Chair of the SMC. The meeting was also attended by Mayor Bobby Hayes of Pelham, Mayor "Sonny" Penhale

of Helena, League Deputy Director/General Counsel Ken Smith and your League Director. At the meeting, an excellent panel from South Carolina, Mississippi and Louisiana discussed the aftermath of Hurricane Katrina and how to better prepare for the next storm or disaster. There was also an excellent discussion of legislative activities in each of the member states.

The League Convention in Mobile was very successful. Thanks were extended to Mayor Sam Jones, the Mobile City Council, and City Clerk Glenda Morgan for their help in making this a great event for us all. Next year's convention will be held in Huntsville, April 21-24, 2007. The new Embassy Suites will be open giving us more rooms in the downtown area. Mayor Loretta Spencer and her staff are already at work making preparations for the event. Due to the Embassy Suites not being able to put the event in their registration system yet, they cannot open any of the room blocks. The League will notify each clerk of the hotel list as soon as the hotels let us know the date on which they will begin accepting reservations.

The League convention is one of the largest in the state. We have followed basically the same format for many years. In my opinion, the time has come for an extensive evaluation of our convention format. We need to survey our membership to determine what works and what doesn't.

In order to decide what action to take, I suggested the president appoint a subcommittee of members to work with the League staff to evaluate the convention and to report its recommendations at the next meeting of the Executive Committee in October. Following comments from the floor, Mayor Jim Byard of Prattville moved that the president appoint a convention subcommittee. The motion, which was seconded by Mayor Roy Dobbs of Berry, passed unanimously.

The president asked the following members to serve on the subcommittee: Mayor Lew Watson, Lincoln; Mayor Sonny Penhale, Helena; Mayor Jim Byard, Prattville; Mayor Bobby Payne, Tallassee; Councilmember Roberta Jordan, Pine Hill; and Councilmember Dean Argo, Prattville.

The League will use the same policy committee meeting process introduced last year. The five policy committees will meet again this year at League headquarters. Instead of all committees meeting on the same day, each committee will meet on a different day. The meeting schedule will be as follows: September 12 (EENR), September 13 (FAIR), September 14 (HD), September 19 (CED) and September 26 (TPSC). Policy committee appointments will be made very soon.

The League continues to add new features to the League web page. The two computer programs continue to do well.

continued next page

The *Municipal Law on Disc* program contains summaries of attorney general opinions, court decisions and ethics opinions published in the League newsletters over the past 40+ years. There are currently 41 subscribers to this program. A subscription lasts for one year and the program is updated quarterly.

The League's second program is *ALM Library*. This program contains the complete text, searchable by word, of the *Selected Readings for the Municipal Official; Handbook for Mayors and Councilmembers; Municipal Clerk's Manual, Municipal Public Improvement Cost Assessments; Methods of Extending Municipal Corporate Limits; Labor Laws Affecting Municipalities; and Incorporating a Community*. We have sold 183 copies of our *ALM Library*.

This has been a big year of technological change for the League. The League hired a full time IT director late last year. He has already made significant changes in the League's IT system. A climate-controlled room was constructed to house numerous servers and other electronic equipment to better serve the League and our two insurance funds. The system has provided the League with top notch backup capabilities and security as well as advanced uses for computers both in-house and on-the-road. The IT director, Monty Paggeot, has been meeting with IT personnel at other Leagues. In fact, this fall, our league will host the IT meeting of the Southern Municipal Conference in Montgomery.

The CMO Graduation Ceremony is scheduled for August 17th. The 2006 Class of Basic and Advanced CMO graduates will be introduced at that time. Since the program began eleven years ago, 2,761 officials have voluntarily enrolled in the program and 1,382 are still in office. Of these, 729 officials have obtained their Basic CMO and 288 officials have gone on to obtain their Advanced CMO. A number of the courses are being offered by CD. In fact, 396 of these CD courses have been ordered.

The next CMO course will provide training on the new business license law and how to deal with separate entities such as boards and volunteer fire departments. The sessions will be offered on Sept. 6 (Montgomery), Sept. 7 (Loxley), Oct. 3 (Huntsville), and Oct. 4 (Birmingham). Since the program deals with business licenses, city clerks and revenue officers have also been extended an invitation to attend these training sessions.

A report was given on several of the League's endorsed programs, including GovDeals Online Auction Program, the Cable Television Franchise Management Program and the AIG-Valic Deferred Compensation program. Members were also informed of two new proposed programs – the

AlaTax Aged Receivables Program and the IASTA Reverse Auction Program. Following discussion, Mayor Leon Smith of Oxford moved that the League enter into a contract with AlaTax to endorse the AlaTax Aged Receivables Program. The motion, which was seconded by Mayor Tim Russell of Foley, passed unanimously. Mayor Leon Smith of Oxford moved that the director be given authority to negotiate and, if appropriate, enter into a contract with IASTA relating to a reverse auction program. Mayor Tim Russell of Foley seconded the motion, which passed unanimously.

The NLC Congress of Cities will be held Dec. 5-9, 2006, in Reno, NV. The League officers and staff will stay at the Silver Legacy Resort and Casino. The Alabama Reception will be held from 5:30-6:30 p.m. on Dec. 8, 2006, in Expo A Meeting Room at the Silver Legacy Resort and Casino. Future meeting dates were announced as follows:

- CMO Graduation – Aug. 17
- CMO Meetings – Sept. 6 (Montgomery); Sept. 7 (Loxley); Oct. 3 (Huntsville); Oct. 4 (Birmingham)
- Policy Committee Meetings – Sept. 12 (EENR); Sept. 13 (FAIR); Sept. 14 (HD); Sept. 19 (CED); Sept. 26 (TPSC)
- MWCF Board Meeting – Oct. 18, 2006
- Year-End Executive Committee – Oct. 19
- AMIC Board Meeting – Oct. 19
- AAMA Mid-Year Meeting – Oct. 26-28 – Panama City, FL
- Committee on State & Federal Legislation – Nov. 9
- NLC Congress of Cities – Dec. 5-9, 2006 – Reno, NV
- First Day of Legislature's Organizational Session – Jan. 9, 2007
- Mid-Winter Executive Committee – Jan. 11, 2007
- First Day of Regular Session – Mar. 6, 2007
- Congressional City Conference – Washington – March 11-14, 2007
- League Convention – Huntsville – April 21-24, 2007
- Southern Municipal Conference Leadership Meeting April 26-28, 2007 – Natchez, MS

I presented the financial report and the proposed preliminary budget for FY2006-2007. Mayor Melvin Duran of Priceville moved adoption of the budget. The motion, which was seconded by Mayor Tim Russell of Foley, passed unanimously.

Mayor Leon Smith of Oxford, president of the Municipal Workers' Compensation Fund, and Mayor Bobby Payne of Tallassee, chair of the Alabama Municipal Insurance Corporation, presented the reports on the activity of their respective programs that were distributed in each packet.

Ken Smith provided members with an update on the AmFund Bond Program. Several members commented on how the program has helped their cities.

League Communications Director Carrie Banks informed members of several articles being prepared for the Alabama Municipal Journal. She mentioned that League Communications Coordinator Niko Corley has been developing materials on the pandemic flu situation and is developing a new Municipal Achievement Awards Program for the League. Further information on these programs will be coming soon.

Following a short report on the 2006 Regular Session, Legislative Liaison Hal Bloom discussed the recent and upcoming elections for legislative and statewide posts. Members brought up several items for discussion including the school bond capitalization plan and annual reappraisals of property. Intergovernmental Relations Director Greg Cochran informed members of the biggest issues facing Congress – telecommunications legislation, right-of-way approvals and CDBG.

Ken Smith presented the legal department report. He introduced Tracy Roberts, the League's assistant general counsel, and welcomed him to the staff. Smith commented on a recent Supreme Court case relating to police department discretionary immunity and an opinion of the attorney general which held that Alabama Capital Improvement Fund money cannot be used to purchase equipment. ■

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Cable Television Franchise Fee Payment Review

Special to *The Alabama Municipal Journal*

Most communities across the state have existing cable franchises, which contain a requirement that the cable operator remit a franchise fee of up to five percent of the cable operator's "gross revenues." Gross revenues are often defined differently from franchise to franchise, resulting in different levels of payment to each community. As the cable industry has become more consolidated, franchise fee payments are now often calculated at corporate headquarters and are far removed from the community, with little knowledge of the definition of gross revenues contained in the local franchise.

As new competitors are beginning to enter the marketplace, it is prudent to review the accuracy of the incumbent cable operator's franchise fee payments to ensure all appropriate revenue is included in the calculation. With the adoption of state and federal legislation changing the regulatory landscape for cable communications, it is particularly important to review past franchise fee payments. If local franchising is superseded by federal or state law, a franchising authority's ability to enforce the payment of past due franchise fees may be jeopardized.


Franchise fee payment reviews often result in cities recovering underpaid franchise fees for cable operators' failure to include in the gross revenue calculation advertising revenue, home shopping commissions, late fees, installation

revenue, wire maintenance revenue and franchise fee revenue. On July 31, 1997, the Fifth Circuit Court of Appeals held that "franchise fees are not a tax . . . but essentially a form of rent: the price paid to rent use of public right-of-ways." *City of Dallas, Tx et al. v. FCC*, No. 96-60427 (5th Cir. July 31, 1997). The Court concluded that unless otherwise excluded under the terms of a local franchise, cable operators must include franchise fees in their calculation of total gross revenues.

Franchise fee payment reviews should also include a jurisdictional coding review to determine if a cable operator has correctly coded all city addresses in its customer billing records. Sometimes city streets are not correctly coded in the customer billing records due to annexations or errors and operators may erroneously send franchise fee payments to other government jurisdictions.

Cities that have recently benefited from cable television franchise fee payment reviews are: Albertville, Asheville, Calera, Columbiana, Coosada, Electic, Hartselle, Hoakes Bluff, Jasper, Piedmont, Sardis City, Sheffield, Springville, Southside, Tuscumbia and Wetumpka.

For more information regarding how your city may benefit from conducting a franchise fee compliance review, please contact Greg Fender with Local Government Services at 1-800-978-0071. ■



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THE LEGAL VIEWPOINT

By Ken Smith
Deputy Director/General Counsel

Nexus Perplexus, Part I

Editor's Note: This is Part I of a two-part article. The second installment will be published in the October 2006 issue of The Alabama Municipal Journal.

Webster defines *nexus* as “a connection, a tie or a link.” For taxation purposes, legally speaking, a nexus is an activity, relationship or connection necessary to subject a person, business or corporation to a jurisdiction’s taxing powers. In recent years, courts in both Alabama and across the nation have struggled with issues related to nexus, making this a frequent topic of discussion among local revenue administrators. This article provides an overview of these developments, as well as a discussion of current interpretations involving nexus.

Nexus in Alabama

Two Alabama appellate court decisions deserve special discussion. These cases, *Ex parte Jefferson County (Yelverton's)*, 742 So.2d 1216 (1997), and *M & Associates v. Irondale*, 723 So.2d 592 (Ala. 1998), have created confusion and uncertainty regarding the collection of municipal licenses and sales and use taxes.

In many ways, these two decisions raise more questions than they answer. Some of what is contained in this article is, therefore, conjecture and the author’s legal opinion, drawing upon the decisions themselves as well as previous court rulings. With that in mind, let’s take a look at these court decisions.

Yelverton’s

Ex parte Jefferson County was before the Alabama Supreme Court on a writ of certiorari from the Court of Civil Appeals. Yelverton’s is an appliance store in Jasper, in Walker County. Individuals from outside the county occasionally purchased items from Yelverton’s. When a customer from outside Walker County took possession of

the goods at the store, Yelverton’s charged state, county and municipal sales taxes to the transaction. But, where the goods were delivered to an out-of-county address, the store charged only state sales taxes. It did not charge Walker County or Jasper sales taxes because the sale closed at the point of delivery. Yelverton’s refused to collect use tax for the counties it delivered to, arguing it did not have nexus with those counties. Jefferson County required payment of the use tax. Yelverton’s paid the tax under protest and appealed to the circuit court, which granted a summary judgment in favor of the county. The case was then appealed to the Court of Civil Appeals, which reversed the decision. The county then filed a writ of certiorari with the Alabama Supreme Court.

This was the case that was going to decide the issue of nexus once and for all in Alabama. And, win or lose, most parties in the case expected the Supreme Court to take the opportunity to resolve the perplexing question of what it means when state law says that local sales and use taxes must parallel the state tax. At issue in *Yelverton’s* was a Department of Revenue (DOR) regulation exempting certain transactions from the sales and use tax because of the definition of nexus DOR followed. Jefferson County had a local act requiring the county’s sales and use tax provisions to “generally parallel” DOR’s regulations. Thus, at issue in *Yelverton’s* was whether a county must follow DOR’s regulations concerning nexus.

Although at the time there was a question whether *Yelverton’s* applied to all Alabama municipalities, that question has since been addressed in Attorney General’s Opinion 2000-128, where the attorney general concluded the *Yelverton’s* decisions did, in fact, apply to municipalities.

The Court of Civil Appeals’ opinion was a bad one for Jefferson County. The county’s problem arose due to a state DOR regulation, 810-6-3-.51, which states:

continued next page

“Where a [county] levies a true sales and use tax . . . the sellers located in the [county] are required to collect the sales tax on retail sales of tangible personal property in the same manner as the state sales tax. . . . *If the sale is made and as a part of the sales agreement the seller is required to deliver the item purchased outside the taxing jurisdiction of the [county], the sale is exempt from the tax.* If the seller whose place of business is located outside the [county] has salesmen soliciting orders within the [county], the seller is required to collect and remit the sellers use tax on retail sales . . . It does not matter how delivery is made.”

Essentially, this regulation requires a physical presence to establish nexus in a taxing jurisdiction. Jefferson County’s local act allowed the county to adopt its own rules and regulations, but required these regulations to “generally parallel the provisions of the State sales and use tax.” According to the Court of Civil Appeals, this means “all taxes imposed by the county under the Act [must] be equal or similar in all ‘essential particulars’ to the state sales and use taxes . . . Under the Act, then, the county taxes should parallel the state sales and use tax, and the procedures used by the county for determining taxes due and the like should mirror procedures used by [DOR].” Therefore, the court held the county had to apply DOR’s rules of nexus. Because the state exempted these transactions from tax, the county was required to do so as well.

The Supreme Court’s quashing of its writ left this decision intact. There was a dissent and a concurrence to the quashing of the writ. Justice Cook dissented, pointing out that the effect of the civil appeals decision is retailers may escape all local sales taxes by simply delivering products or having the customer pick up products in another taxing jurisdiction. Justice Cook contended that under existing state statutes, Yelverton’s was doing business in Jefferson County and therefore should be subject to the county sales tax. His point was this was not a use tax situation, but instead involved a sales tax. The dissent noted Section 40-23-1(a)(5) of the Code defines a “sale” as “completed . . . when and where title is transferred by the seller of seller’s agent to the purchaser or purchaser agent.” In the view of the dissenting Justice, once Yelverton’s delivers an appliance into Jefferson County, it has completed a sale for tax purposes, which fits in the definition of business under Section 40-23-1(a)(11). This would entitle Jefferson County to collect a sales tax on these transactions. In other words, what was involved in *Yelverton’s* was not a use tax, based on the delivery of the item into Jefferson County, but was instead still a sales tax that state law allows Jefferson County to tax.

Concurring with the decision to quash the writ, Justice See disagreed with the dissent, arguing Yelverton’s was not doing business in Jefferson County. He also noted the transactions would not escape taxation because, although the county could not collect a sales tax, the transaction was subject to the use tax. The implication of his argument, though, is the county would have to collect the tax directly from the consumer rather than having Yelverton’s collect the tax for them.

M & Associates

Like *Yelverton’s*, *M & Associates v. City of Irondale* has been the source of a number of discussions between local taxing officials and businesses. M & Associates is headquartered in Irondale and sells electrical supplies from its facility there as well as from facilities in Mobile, Georgia, Tennessee, Mississippi and Louisiana. The company uses a central billing system in Irondale; all gross receipts are transmitted to its headquarters in Irondale. The city sought to assess a gross receipts license against M & Associates’ entire interstate business; that is, the city based the business’s gross receipts upon its total sales, even where those sales had no connection to Alabama other than the bookkeeping.

The Alabama Supreme Court evaluated this taxing scheme using the test set out by the U.S. Supreme Court in *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977). Under this test, a local tax will be valid if four conditions are met:

- (a) the tax must be applied to an activity with a substantial nexus to the taxing state (jurisdiction);
- (b) the tax must be fairly apportioned;
- (c) the tax must not discriminate against interstate commerce; and
- (d) the tax must be fairly related to services the state provides.

A tax is valid only if all four elements of the test are satisfied. In *M & Associates*, the court was particularly concerned with whether the local tax was fairly apportioned. The court quoted the U.S. Supreme Court, saying:

“[W]e are mindful that the central purpose behind the apportionment requirement is to ensure that each State taxes only its fair share of an interstate transaction. But ‘we have long held that the Constitution imposes no single [apportionment] formula on the States,’ and therefore have declined to undertake the essentially legislative task of establishing a ‘single constitutionally mandated method of taxation.’ Instead, we determine whether a tax is fairly apportioned by examining whether it is internally and externally consistent. . . . To be internally consistent, a tax

must be structured so that if every State were to impose an identical tax, no multiple taxation would result.” *Goldberg v. Sweet*, 488 U.S. 252 (1989). (Citations omitted.)

The court also cited *Gwin, White & Prince v. Henneford*, 305 U.S. 434 (1939), where the U.S. Supreme Court struck down a Washington state statute that assessed a gross receipts privilege tax against a business marketing fruit shipped from Washington to destinations around the country and the world. The state of Washington included in gross receipts even where the fruit was shipped to a location outside Washington, and then sold outside the state. The U.S. Supreme Court held that imposition of the state tax violated the federal commerce clause.

Similarly, the Alabama Supreme Court held the ordinance in *M & Associates* was not internally consistent. The court stated “if local governments in other states in which M & Associates does business ... were to impose license taxes based on gross receipts from sales made within their respective jurisdictions, then multiple state taxation of interstate commerce would result ... [I]f M & Associates were to sell a certain piece of electrical equipment from its facility in Marietta, Georgia, that one sale would be subject to taxation in both Georgia and Alabama.” Thus, the court held that the ordinance was not fairly apportioned because a single transaction could result in two taxes by separate jurisdictions. It is irrelevant whether other jurisdictions actually apply a tax—the only question is whether the transaction may be reasonably subject to application of a gross receipts tax by another jurisdiction.

The court did, however, specifically uphold its decision in *City of Tuscaloosa v. Tuscaloosa Vending Co.*, 545 So.2d 13 (Ala. 1989), where the court said a city can impose, on businesses located inside the corporate limits or police jurisdiction, a gross receipts fee that includes transactions from that facility, whether the sale was inside the corporate limits or beyond. Thus, it would be permissible for a municipality to include, in the license fee of a business located in the municipality or police jurisdiction, any intrastate sales from that location.¹ The question remains, though, can a municipality include the gross receipts from interstate sales by businesses located in the police jurisdiction or corporate limits? In the League’s opinion, the answer is a qualified yes.

Once the court determined municipalities have the right to include in the license fee the gross receipts of transactions which occur beyond the municipal corporate limits, the issue returns to the court’s earlier analysis; that is, does the imposition of the tax satisfy the four-prong test of *Complete Auto*? Simply stating the sale occurs in interstate commerce isn’t enough to exempt the sale from municipal gross receipts taxation. Remember that a tax is not fairly

apportioned only if another state could impose the same type tax on the same transaction. In many cases, this can’t happen because the other state cannot obtain sufficient nexus to assess the gross receipts tax.

Perhaps an example would help illustrate this point. Look again at the situation in *Tuscaloosa Vending*: a business physically located within a municipality’s taxing jurisdiction ships goods throughout the country. It receives orders at the Tuscaloosa site and ships from that location. In this situation, it is clear Tuscaloosa is the only jurisdiction so closely aligned with the transaction that it can levy a license tax. If the goods are shipped to Atlanta, then Atlanta’s only connection to the transaction is the delivery. It would not have sufficient nexus with the business to assess a gross receipts tax against it.

M & Associates is frequently cited for the proposition that it requires municipalities to exclude gross receipts of interstate transactions from the computation of a local business’s license fee. In the League’s opinion, this is not the case. Only where the gross receipts of a transaction can be taxed both by an Alabama municipality and a municipality in another state does *M & Associates* prohibit including the gross receipts of interstate sales.

Like *M & Associates*, *Oklahoma Tax Com’n v. Jefferson Lines, Inc.*, 514 U.S. 175 (1995), concerned whether the tax in question met the internal/external consistency prong of the *Complete Auto* test. *Jefferson Lines, Inc.*, a common carrier, did not collect or remit to Oklahoma the state sales tax on bus tickets sold in Oklahoma for interstate travel originating there, although it did so for tickets sold for intrastate travel.

The Court stated the purpose of the second prong of the *Complete Auto* test is to ensure each State taxes only its fair share of an interstate transaction. A properly apportioned tax must be both internally and externally consistent. Internal consistency looks to whether a tax’s

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identical application by every state would place interstate commerce at a disadvantage as compared with intrastate commerce. The Court found no failure of consistency in this case, because if every state imposed a tax identical to Oklahoma's – that is, a tax on ticket sales within the state for travel originating there – no sale would be subject to more than one state's tax.

The Court noted external consistency, conversely, looks to the economic justification for the state's claim upon the value taxed, to discover whether the tax reaches beyond the portion of value fairly attributable to economic activity within the taxing state. Jefferson offered no convincing reasons why the tax failed the external consistency test. Therefore, the Court found Oklahoma's sales tax on the full price of ticket for bus travel from Oklahoma to another state did not violate dormant commerce clause.

Taxes Involved

Issues of nexus generally arise from three types of taxes: true sales and use taxes, license taxes and gross receipts taxes in the nature of a sales tax.

The true sales and use tax is a consumer tax; that is, although the seller collects this tax, he or she serves only as an agent for the taxing jurisdiction. The purchaser is the ultimate taxpayer. The use tax is on tangible personal property which was purchased outside the jurisdiction for use or

consumption within the jurisdiction. Instead of a true sales tax, a few municipalities assess a gross receipts tax in the nature of a sales tax. The source of this power is Section 11-51-90, Code of Alabama, 1975. Section 11-51-90 authorizes all municipalities to collect license taxes. These fees are collected from the business itself for the privilege of doing business within the municipality. License fees are generally based on either a flat rate or on the gross receipts of the company. The state DOR may collect municipal sales and use taxes and gross receipts taxes in the nature of a sales tax and certain license fees.

The Transfer of Title

Although the state DOR has determined that for ease of collection, a sales and use tax is not due when a seller delivers the goods in question into another jurisdiction, this interpretation is not consistent with earlier court decisions on the issue. No tax is due to the jurisdiction where the seller's business is located because the local incident of taxation did not occur there. In effect, Regulation 810-6-3-.51(2), means on these transactions, no local sales or seller's use tax will be collected. This is the situation in *Yelverton's*. This result seems to conflict with the legislative intent behind the implementation of the sales and use tax.

Section 11-51-200 authorizes every municipality in Alabama to adopt a true sales and use tax to parallel the

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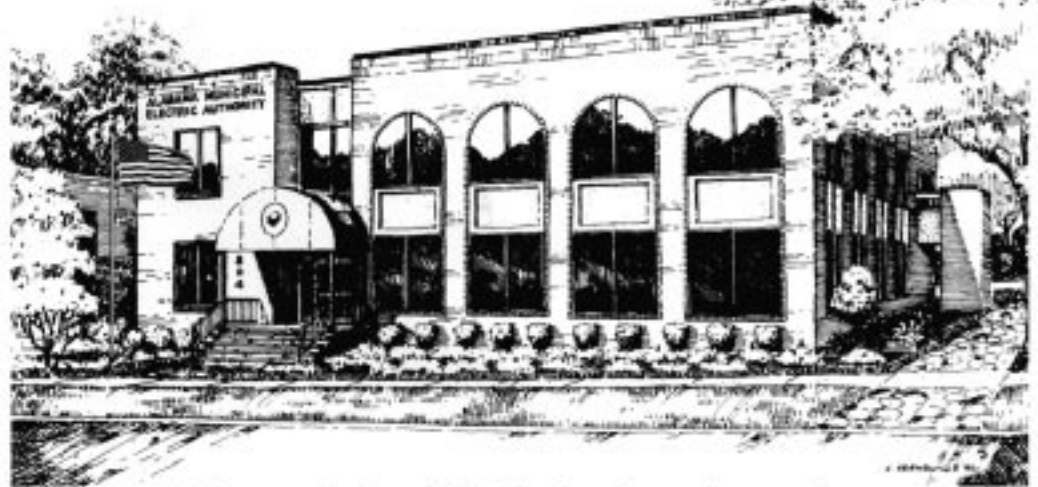
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state tax. Pursuant to state law, whether a sales tax is due on a transaction depends upon the passing of title between the buyer and seller. *Hamm v. Continental Gin Co.*, 276 Ala. 611, 165 So.2d 392 (1964). Section 40-23-1(5) states “a transaction shall not be closed or a sale completed until the time and place when and where title is transferred by the seller or seller’s agent to the purchaser or purchaser’s agent.”

Delivery is a pivotal issue for determining where title transfers, but it is not conclusive. The determining factor is the intent of the parties, in whatever means it is revealed. However, where common carriers or the U.S. postal service are used for delivery, Section 40-23-1(5) makes the carrier an agent of the seller, regardless of any F.O.B. point, and regardless of who selected the method of transportation. In this instance, by legislative decision, title transfers at the point of delivery. All other cases must be resolved on a case-by-case basis, using the facts as a guide for determining when title transferred.

In all transactions, title will transfer at some point. A determination by the state DOR that it will not, for administrative convenience, collect any local tax where the seller delivers outside the jurisdiction where it is located should not restrict those jurisdictions which collect their own sales and taxes. After *Yelverton’s*, though, DOR’s regulation

does apply to public entities. In any case, regardless of where title transfers, the seller must have sufficient connections with the taxing jurisdiction to be subject to a local tax.

Interstate Commerce

No discussion of nexus is complete without mentioning interstate commerce. The federal commerce clause prohibits states from imposing a tax on goods entering its boundaries unless a minimum connection exists between the state and the business. Without a strong enough nexus, a tax violates the interstate commerce clause by limiting the free movement of goods.

In Alabama, licenses may be assessed on businesses which operate in interstate commerce only to the extent of the business which is transacted within the limits of the state and where the business has an office or transacts business in the city or town imposing the license. Sales and income-based taxes on companies which merely ship into Alabama from outside the state are governed by federal law. Article I of the United States Constitution provides:

“Congress shall have the power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

continued next page

Interstate commerce embodies any business which operates between two or more states. Individual states may not impede the flow of commerce from other states. The commerce clause prevents states from blocking channels of free trade, and, thus, impairing the national market. However, does state taxation of interstate commerce block free trade?

The U.S. Supreme Court has been asked to rule on this question several times, with various results. The Court has called its own decisions on state taxation of interstate commerce a “quagmire,” and Justice Scalia has declared that in the 114 years since the commerce clause was first applied in this area, the Court’s applications of the doctrine have “made no sense.”

Let’s take a moment to explore the development of the commerce clause in the area of state taxation and discuss possible ramifications of recent Court decisions on the tax revenues of local governments.

History

In interpreting state taxation of interstate trade, the Court has expressed concern in two areas: the commerce clause mandate that states not interfere with interstate commerce and restrictions on personal jurisdiction imposed by the due process clause.

The Court’s decisions have tended to follow trade developments. In the early history of our country, only rare products were not produced locally. Markets were local and state regulations had little impact on commerce between the states.

In the 1800’s, though, the market shifted. People began congregating in cities and towns. Transportation improved, and more goods were produced for a national market. The Court struck down many state regulations on commerce clause grounds to protect the fledgling economy and encourage growth. These rulings placed the power to regulate this national commerce solely in the hands of Congress. Justice Harlan Stone has said the Court’s interpretation of the commerce clause, more than perhaps any other single element, bound the states into a nation.

Commerce clause opinions during the 19th century illustrate some of the central concerns the Justices had in trying to establish the proper role of the state and federal governments. The Court sought to preserve the territorial integrity of the states while simultaneously acknowledging Congress’ power under the Constitution to regulate interstate commerce. Industries challenged many state laws during this period and succeeded in establishing a federal right that only Congress can regulate interstate trade.

One of the results was a ban on local taxation of interstate businesses. In the early 1800’s, the Court felt

states should not tax interstate commerce. The late 1800’s, however, witnessed a shift in feelings.

The Court continued to prohibit direct taxation but allowed indirect taxation. The Court held that each sovereign is supreme within its sphere of influence. A state can exercise its police power, leaving Congress to regulate the commercial aspects of interstate commerce. If a state law operated extraterritorially or unreasonably burdened the introduction of nondomestic products into a state, the Court treated the law as a direct regulation of interstate commerce and a violation of the commerce clause. When the state’s exercise of police power was not aimed at interstate commerce but the means of regulation merely affected interstate commerce, the state was free to regulate, unless pre-empted by Congress. ■

Footnotes

¹ The court declined to address whether Irondale could include the receipts from M & Associates’ Mobile location when computing the company’s license fee.

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Prosecutors Topics Planned for Fall AAMA Conference

On July 14th, the Alabama Association of Municipal Attorneys (AAMA) Prosecutors' Planning Committee met at League headquarters to plan its portion of the AAMA fall conference, which is scheduled for Oct. 26-28, 2006, at the Bay Point Marriott Resort in Panama City, FL. This year's prosecution topics will include presentations on search and seizure issues, proof of automobile liability insurance, immigration issues, Mobile's Environmental Court, collection of court costs, fines and restitution as well as domestic violence prosecution issues. In addition, this year's conference will provide municipal prosecutors with the opportunity to network and discuss legislative and other issues in a roundtable format.

The AAMA Attorneys Planning Committee will meet on August 18th at League headquarters to plan the rest of the fall conference. We hope municipal attorneys and prosecutors will make plans to attend the fall conference and that our elected officials with support and encourage their attorneys, prosecutors and judges to attend. **A registration form is located on page 23 of this publication or online at www.alalm.org.**

To make room reservations, you can call the reservations department at (800)644-2650. Standard room rates are \$119 per night, Bay View Rooms are \$139 per night and one-bedroom golf villas are \$139 per night. These room rates are available for three days prior-to and three days after the conference if you make your reservations by telephone. You can also register for rooms online. Please go to **www.alalm.org** to find links for online registration. Please be sure to mention that you are with the Alabama Municipal Attorneys Association so you will be included in our room block and get the above-mentioned room rates.

COURT DECISIONS

Taxation: A local act limiting the amount of lodgings taxes that can be charged by a municipality within a county violates Section 105 of the Constitution of Alabama of 1901 because it attempts to regulate matters that are provided for by state general law under Section 11-51-202 of the Code of Alabama 1975. *City of Homewood v. Bharat, LLC*, 931 So.2d 697 (Ala. 2005).

DECISIONS FROM OTHER JURISDICTIONS

Fair Labor Standards Act: Firefighters who spend 20 percent or more of their time performing support functions are still exempt from the Fair Labor Standards Act's overtime requirements. *McGavock v. Water Valley, MS* (5th Cir. 2006).

ATTORNEY GENERAL OPINIONS

Open Meetings Law: A volunteer fire department certified by the Alabama Forestry Commission is subject to the Open Meetings Law. 2006-108.

Competitive Bid Law: A Class 7 or 8 municipality may enter into a contract with a business owned by the mayor if the provisions of Section 11-43-12.1 of the Code of Alabama 1975 are complied with requiring such contracts be bid pursuant to the Competitive Bid Law. 2006-109.

Medical Services: A municipality may purchase property, deed that property to a health care authority organized pursuant to 22-21-310 et seq. of the Code of Alabama 1975, and then lease the same property from the authority for the purpose of establishing a health care facility in the municipality. Alternatively, a municipality may give the authority the necessary funds to acquire property and then lease that property from the authority. 2006-115.

Attorneys Fees: A municipality is authorized to pay the legal expenses to defend city officials or officers sued in their individual capacities if the municipality determines that: (1)

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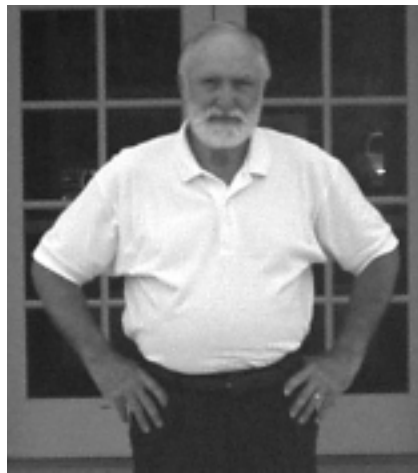
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Congratulations!

clerks' training programs, said are the "nuts and bolts" of what clerks do every day.

While clerks' duties differ from municipality to municipality and can't be compiled into one succinct, universal list, a common truth exists: municipalities function more effectively with a knowledgeable, well-trained clerk than they do with one who hasn't undergone any training and doesn't attend meetings. Given the variety of tasks clerks can be responsible for, especially in cities and towns short on personnel, keeping a city running can be an incredibly difficult job.

"They [clerks] have so many hats to wear," Pow said, "because they are the only ones there sometimes."

With more than 10,000 members worldwide, the IIMC, along with AAMCA, provide a strong support system for clerks, one that Montgomery City Clerk Brenda Blalock considers "a vast wealth of knowledge." Part of the reason these groups have been so successful is because of the clerks themselves, who Pow says greet each other with open arms and try to help one another whenever possible.

Even with certification programs and professional organizations providing support, technical assistance and training, however, city clerks often do not get the credit and respect they deserve. Some of this may be due, Morgan says, to people's connotation of "city clerk."

"The title is a drawback" Morgan says, but that doesn't denote an unimportant position or one that just anyone can do.

"My position has to have a degree," Morgan said, and "even my assistant has a degree."

Still, regardless of the heavy workload and high demands placed on city clerks, there are aspects of the job that make it worthwhile. Helping the public and greeting people, for example, can be rewarding.

"One of my favorite jobs is being the welcome wagon," Rabren said.

However, for others, variety is what keeps them interested.

"No two days are alike," Morgan said. "But that's why I like my job." ■

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Legal Clearinghouse

continued from page 19

the municipality has the proper corporate interest in the action; (2) the actions allegedly committed were done in the discharge of official duties; and (3) the official acted honestly and in good faith. 2006-116.

Downtown Redevelopment Authority: A municipality may utilize its downtown redevelopment authority, organized pursuant to Section 11-54A-1 et seq. of the Code of Alabama 1975, to revitalize and rebuild commercial and or retail enterprises in its central business district. 2006-118.

Competitive Bid Law: The transfer of funds from the city general fund to the city municipal court fund for the reimbursement of monies paid from the court fund for the purchase of a vehicle is not subject to the Competitive Bid Law. 2006-123.



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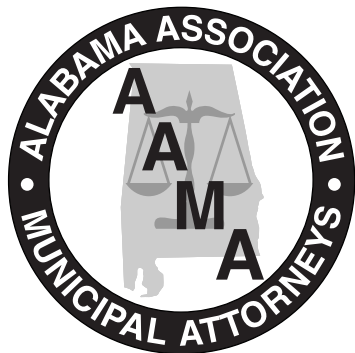
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2006 CMO Graduation Ceremony Held August 17th

On Aug. 17, the League held commencement ceremonies in Montgomery for its Elected Officials Training Program. These graduation exercises marked the eleventh group of officials to receive their basic CMO (Certified Municipal Official) certification and the eighth group to receive their advanced CMO certification.

The Elected Officials Training Program consists of a series of one-day continuing education programs designed for elected municipal officials – mayors and councilmembers – who voluntarily wish to receive formal training in municipal government.

Officials who complete 40 credit hours of training are awarded the professional designation of Certified Municipal Official. Training sessions are conducted twice each year at four regional sites throughout the state. Additional hours may be earned by attending designated sessions during the annual League Convention and other approved events sponsored by the League and the National League of Cities. A limited amount of credit may be obtained by attending other approved courses. The training program can be completed in as few as two calendar years.

The Elected Officials Training Program is an ongoing project of the Alabama League of Municipalities to fulfill the education mandate contained in its constitution.

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

Session topics include council meeting procedure, rules of parliamentary procedure, the Open Meetings Act, public records, ordinance drafting, powers of municipalities, ethics laws, conflicts of interests, duties of mayors and councilmembers, tort liability, annexation, zoning, subdivision regulation, municipal revenues and expenditures, the competitive bid law, personnel issues, insurance issues and regulatory powers of municipalities.

In 1998, the League added an Advanced CMO Program for those officials who had received the CMO designation and desired additional training.

During its January 2000 meeting, the League's Executive Committee approved the addition of a continuing education requirement to the Elected Officials Training Program. The committee members felt the new requirement would

strengthen the CMO Program.

As of Jan. 1, 2000, each Advanced CMO Graduate is required to earn ten (10) credit hours of approved training within two (2) calendar years to maintain their Advanced CMO active status. Any CMO Advanced Graduate who does not earn at least ten (10) approved credit hours of training within two (2) calendar years will have their Advanced CMO status designated as "inactive" until such time as the required ten (10) hours of approved credit is earned. The continuing education credits started at the 2000 Convention in Birmingham.

This year, a total of 68 municipal officials successfully completed the requirements to receive their CMO certification. Twenty-five officials received their Advanced CMO certification.

Rep. Bill Dukes of Decatur addressed the 2006 graduates of the Elected Officials Training Program during the ceremony.

Dukes has been a key player in municipal government for 28 years – 18 of them as mayor of Decatur. A past president of the League, Rep. Dukes was elected to the Alabama Legislature in 1994 and currently serves as chair of the House Local Government Committee. Following his comments, Dukes handed out plaques to those graduates who were able to attend the commencement ceremonies. The 2006 graduating class of Certified Municipal Officials and Advanced Certified Municipal Officials is listed on the next page. ■



Rep. Bill Dukes addressed graduates at the CMO ceremony.

2006 Advanced and Basic CMO Graduates

ADVANCED CERTIFIED MUNICIPAL OFFICIALS

Mayor John W. Lewis, Bridgeport
Councilmember Bobby R. Seabolt, Bridgeport
Mayor Thomas Henderson, Center Point
Councilmember Tom W. Hampton, Centre
Mayor Earl Niven, Chelsea
Councilmember David E. Dunlap, Childersburg
Councilmember Curtis E. Heathcoe, Creola
Mayor Kenneth W. Boswell, Enterprise
Mayor Timothy Kant, Fairhope
Mayor Steve Means, Gadsden
Mayor Charles W. Penhale, Helena
Councilmember Jannie C. Jordan, Hurtsboro
Councilmember Owen Drake, Leeds
Mayor Edward Mackey, Leesburg
Councilmember Carolyn G. Smith, Lineville
Councilmember Glenda J. Horsley, Locust Fork
Councilmember Cynthia McCollum, Madison
Mayor Gary Fuller, Opelika
Councilmember Marilyn M. Tamplin, Ozark
Mayor Bobby Hayes, Pelham
Mayor Jack Fendley, Pennington
Councilmember William J. Baker, Piedmont
Mayor Charles R. Fagan, Piedmont
Councilmember Bryan Stone, Rainbow City
Councilmember Glenn E. Baker, Springville

BASIC CERTIFIED MUNICIPAL OFFICIALS

Council President Rick Walters, Alabaster
Councilmember Robert B. Hicks, Alabaster
Councilmember Benjamin L. Little, Anniston
Councilmember Russ Elrod, Arab
Councilmember Dianne Prestridge, Arab
Councilmember Sheila Eckman, Auburn
Councilmember Melvin Bradley, Bay Minette
Councilmember Calvin Madison, Berry
Councilmember Tom Henderson, Sr., Brighton
Councilmember Lawrence Bowden, Brundidge
Councilmember Bill Bledsoe, Butler
Councilmember John T. Leesburg, Center Point
Councilmember Winston E. Chapman, Center Point
Councilmember Roger A. Barlow, Center Point
Councilmember Cleophus Stephens, Chatom
Councilmember Juanita J. Champion, Chelsea
Councilmember Jeffrey M. Denton, Chelsea
Councilmember Dean A. Kirkner, Clay
Mayor Jack Pelfrey, Clio
Councilmember Stephanie Sapp, Clio
Mayor Lomax Smith, Cottonwood

Mayor Don Kyle, Decatur
Mayor Cecil P. Williamson, Demopolis
Councilmember Tayna M. Rains, Dutton
Chairperson Clyde T. McArthur, Jr., Eclectic Planning
Commission
Councilmember Donna Woerner, Elberta
Mayor Roy Willingham, Sr., Emelle
Councilmember Walter Heard, Foley
Mayor William "Bill" Jordan, Fort Payne
Mayor Theoangelo Perkins, Harpersville
Mayor Dwight Tankersley, Hartselle
Councilmember Mark Mizell, Hartselle
Councilmember John D. Glover, Headland
Mayor Anna L. Berry, Heflin
Mayor Sandra Tarver, Hurtsboro
Councilmember Robert Marks, Jackson
Mayor Johnny L. Smith, Jacksonville
Councilmember James D. Strall, Kansas
Councilmember Franklin K. Brewster, Leesburg
Councilmember Jean B. Burk, Lincoln
Councilmember Emily B. Snellgrove, Malvern
Councilmember Velma Johnson, Midfield
Councilmember Janice B. Anderson, Midfield
Mayor Gary R. Richardson, Midfield
Councilmember Janet T. May, Montgomery
Councilmember Linda T. Crowe, Moody
Mayor Robert O. Morrison, Moundville
Councilmember James E. Holland, Muscle Shoals
Councilmember Len Murphy, Oneonta
Councilmember Jim Bradley, Opp
Councilmember June L. Reaves, Oxford
Councilmember Winston T. Jackson, Ozark
Councilmember Andy Gilland, Ozark
Councilmember Linda Gail Brantley, Phenix City
Councilmember Eddie A. Baldwin, Piedmont
Councilmember Margarette K. Doster, Pinckard
Councilmember Ossia Edwards, Prichard
Councilmember Robert B. Saint, Russellville
Mayor Vickie D. Moore, Slocomb
Mayor Richard L. Buckner, Springville
Councilmember James L. Stirling, Springville
Councilmember Gena I. Mullen, Springville
Council President Doug I. Murphree, Sylacauga
Mayor Stevan H. Parsons, Sylvan Springs
Councilmember James E. Robinson, Trussville
Councilmember Toulis Jones, Uniontown
Councilmember Eugene Booker, Uniontown
Councilmember Jerry A. Huddleston, Wedowee

Arvell Kornegay

Arvell Kornegay, Woodstock councilmember, died May 24, 2006. He was 74. Kornegay was instrumental in Woodstock's incorporation, going door-to-door to get signatures from citizens, and served on the city council from 1996 until his death earlier this summer.

Charles Henderson

Charles Henderson, Dadeville city councilmember, died May 27, 2006. He was 74. Henderson was a Korean War veteran and was serving his fourth term on the city council. He worked for the Dadeville Cemetery and Fire Department and also had done work with the Dadeville Area Chamber of Commerce.

Reginald Minter

Reginald Minter, former Millbrook mayor, died in June at the age of 88. Minter was very involved in his church, Coosada Baptist Church, and was a member of the Millbrook Men's Club.

James Dean

James Dean, former Alexander City city councilmember, died June 8, 2006. He was 80. Dean served two-and-a-half terms on the council. He was a member of the Lion's and Kiwanis Clubs, the American Legion and the Red Cross.

Edna Merle Shambo

Edna Merle Shambo, former town clerk/treasurer of Loxley, died June 15, 2006. She was 71. Shambo was a certified municipal clerk and served as clerk and treasurer of Loxley for 36 years. In 1982, she received the Woman of the Year Award from the Central Baldwin County Chamber of Commerce, and in 1986 was honored with the Alabama Municipal Clerk of the Year Award. Shambo was a member of the International Institute of Municipal Clerks, the Alabama Association of Municipal Clerks and Administrators and the Loxley First Baptist Church. She was also an honorary lifetime member of the Loxley Volunteer Fire Department.

Hoyt D. Cabaniss

Hoyt D. Cabaniss, former Sylacauga city councilmember, died July 2, 2006. He was 71. Cabaniss, a former Talladega County sheriff and a former bodyguard to Gov. George C. Wallace, served two terms on the Sylacauga City Council.

Cecil "Bubba" Langford

Cecil "Bubba" Langford, former mayor of Notasulga, died July 11, 2006. He was 70. Langford was mayor of the municipality for 32 years, ending his last term in 2000. Langford helped Notasulga get a sewer system and a senior citizen nutrition center (which was named for him). He also helped rebuild city hall after a fire took the previous building.

Margie M. Wilson

Margie M. Wilson, former mayor of Prichard, died July 20, 2006, in Mobile. She was 66. Wilson was the city's first female mayor, serving in the position from 1988 to 1992.

James E. Driskell

James E. Driskell, former mayor of New Brockton, died July 20, 2006, at the age of 71. Driskell, who served in the U.S. Air Force, also served as New Brockton's mayor from 1984 until 1992. He is credited with bringing a sewer system to the city, updating New Brockton zoning ordinances and creating a senior citizen center.

Joseph F. Stegall

Joseph F. Stegall, former York mayor, died July 23, 2006. Stegall was elected mayor of York in 1987 and was reelected twice. An Air Force man for 22 years, Col. Stegall was as a reconnaissance pilot during Vietnam and flew more than 200 combat missions during the war.

Amon C. Williamson

Amon C. Williamson, former Northport city clerk, died July 24, 2006. He was 86. Williamson served as Northport's city clerk from 1968 until 1981.

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