

The Alabama Municipal JOURNAL

April 2011

Volume 68, Number 10



2011 Annual Convention
April 30 - May 2

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On the Cover:

The League's Annual Convention will take place April 30 through May 3 at the Von Braun Center in Huntsville! Register online now at www.alalm.org by clicking on the link under the Events Calendar on the homepage

NOTE!! The deadline for pre-registration is April 8. After April 8, delegates must register at the convention registration desk in the Von Braun Center.

Questions? Contact the League's Membership Director, Theresa Lloyd, at 334-262-2566 or via e-mail at theresal@alalm.org.

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HUNTSVILLE

Tommy Battle
Mayor



Welcome to Huntsville!

*As Mayor, and on behalf of the citizens of Huntsville, it is my pleasure to welcome you to the annual convention of the **Alabama League of Municipalities**. This convention brings about unified voices and the collective actions of dedicated municipal officials translating into a compelling force that articulate concerns, solve problems and achieve the goals of its member municipalities across the State of Alabama.*

*It is an honor and our distinct pleasure to host the **2011 League Annual Convention**. Your ALALM staff has spent many hours preparing activities to make this convention a great success and our city has benefitted from their efforts. I also extend my appreciation to your members, sponsors and volunteers for their dedicated support of ALALM.*

Huntsville is a unique place because our rich southern heritage is interwoven with cutting-edge space and technology programs. While we are extremely proud of our past, our city continues to grow and successfully meet new challenges.

While you are in our city I hope you have the opportunity to enjoy the many sights and attractions Huntsville offers – among them are the U.S. Space and Rocket Center, the Huntsville Museum of Art, Early Works, the Botanical Garden and several others.

I hope you enjoy your stay and will come visit us again. Enjoy yourselves while you are here and know that you are always welcome in Huntsville!

Sincerely,

Tommy Battle
Mayor

The Star of Alabama

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The President's Report

Charles Murphy • Mayor of Robertsdale



2010 Census Highlights

The U.S. Census Bureau began releasing the highly anticipated 2010 Census results this past February. The data provides a current portrait of America with each state receiving local level population counts and data on race, Hispanic origin and the voting age of the population.

As required by Public Law 94-171, the Census Bureau provided districting data to the 50 states on a state-by-state flow basis within a year following Census Day – or by April 1st (For more information on how the new population figures impact municipal government operations, see this month's Legal Viewpoint article on page 9.) This information is released in a nonpartisan manner so that state governments can redraw the boundaries of their U.S. Congressional and state legislative districts. While Alabama is not one of the states that gained or lost a seat in the U.S. House of Representatives based on the 2010 Census, the figures released show that Alabama's 7th District, the only district to lose residents, is about 80,000 people short of the 683,000-person target population for each of the seven districts. Therefore, the Legislature will have to redraw the map in a way that adds population to the 7th District while paring down those other districts that are over the target.

Of course, Census counts do more than determine congressional seats. They also govern the annual distribution of billions in federal funds for health care, housing, transportation and many other programs. Additionally, Census counts are used to determine how much federal funding is distributed to a city or state based on grants and other outlays. Such allocations are used to fund hospitals, schools, transportation, public works projects (such as bridges and tunnels), emergency service, senior centers and job training centers.

According to Census data, the population of Alabama's largest city, Birmingham, shrank 12.6 percent from 2000 to 2010, while the capital city of Montgomery grew by 2.1 percent. The state's two growth powerhouses were Tuscaloosa, which grew by 16.1 percent, and Huntsville, which grew by 13.8 percent. Baldwin County, which increased 29.8 percent, was the state's second-fastest-growing county. Overall, the state's population grew 7.5 percent to 4,779,736 with the four major metros along the I-65 corridor now home to 49 percent of the state's population. The state also became more diverse. Statewide, the Hispanic population grew 145 percent, adding 109,772 to the state's population. Hispanics now make up 3.9 percent of the population, compared with 1.7 percent a decade ago. Blacks now represent 26.2 percent of the state's population – up from 26 percent in 2000; the Hispanic population grew 145 percent and is now 3.9 percent of the population (compared to 1.7 percent a decade ago) and the state's Asian population increased 71 percent and represents 1.1 percent of the population.

The U.S. population increased to 308.7 million people – an increase of 9.7 percent, the slowest growth since the Great Depression – up from 281.4 million in 2000.

The League is offering a panel discussion titled "Dealing with the 2010 Census Information and Voting Rights Act Bailout Issues" as a concurrent session option from 2:30 to 3:30 on Monday afternoon of Convention, May 2, in Huntsville. For additional Census information visit:

www.2010.census.gov/2010census/data/



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Large Florida State Court

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- Court Clerk
Large Municipal Court

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- Judge
Alabama Court

Benefiting the Defendants...

"JCS has helped me understand the bad decisions I have made in my life. Through their guidance I have been given a chance to start over."

- Emma G., Defendant
Florida State Court

"...thank you for getting me into a treatment program. I'm loving my sobriety. It's a wonderful life. It does work One Day At A Time."

- Danny B., Defendant
Marshall County, Alabama

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- Craig A., Defendant
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Municipal Overview

Perry C. Roquemore, Jr.
Executive Director



Congressional Update

Congress is working on many issues of importance to cities and towns nationwide. This month's Overview provides NLC updates on the new transportation bill written by Leslie Wollack and a proposal to create a new public safety communications network written by Mitchel Herckis.

Leaders Pledge to Work on New Transportation Bill

Congress has passed, and the President is expected to sign, the seventh extension of the nation's surface transportation program, which will fund state and local highway, bridge and transit programs until the end of the fiscal year on September 30. The program, known as SAFETEA-LU expired in September 2009.

Federal transportation programs, funded out of the federal fuel tax revenues and collected in the Highway Trust Fund, have been protected from Congressional budget cuts since they have a dedicated source of revenue.

Recognizing the negative impact of the short-term extensions on state and local planning, House, Senate and Administration transportation leaders are promising to work expeditiously on a new long-term bill. A House Transportation Committee bill, supported by former Chairman Jim Oberstar and current Chairman John Mica (R-Fla.), two years ago failed to identify a new source of revenue to expand the current program. In fact, revenues coming into the Highway Trust Fund have fallen short of the current authorized spending levels in the past few years and the Administration has been forced to transfer general Treasury funds into the highway program to keep state projects moving. The lack of funding for a new transportation program has held up agreement in Congress since the program expired and will likely color discussion on the next bill.

Chairman Mica has insisted that the transportation program will have to live within its means, which would mean a smaller bill. Some Republican leaders are arguing for a transportation bill that funds only highways and not transit, but Mica continues to voice his support for transit programs, as well.

The House Transportation Committee has been holding field hearings around the country to gather input for a new multi-year bill, including a joint hearing with Senate Environment and Public Works Committee Chair Barbara Boxer (D-Calif.) last month in Los Angeles. Boxer has been working with Democratic and Republican leadership on her committee and intends to mark up a transportation bill in May, although she has not provided any specifics on what she would like to see in a new bill.

The President released his authorization proposal as part of the FY 2012 budget request to Congress, calling for a six year \$551 billion transportation program focused on consolidating 55 current programs into five new programs and merging transit programs.

The proposal continues strong support for federal transit programs and includes three discretionary programs aimed at cities.

The President's proposal changes the definition of the national highway system to include 200,000 more miles of roadway, a 30 percent increase. This will make it easier for communities to access the highway funding they need — and to direct resources to the projects of greatest significance to the largest number of people.

One key barrier to a new bill is funding. Both Chairman Mica and Transportation Secretary Ray LaHood are looking at financing alternatives to bridge the gap in available funding but have stated they do not support an increase in the current gas tax.

A recent survey from the Rockefeller Foundation found that 79 percent of Americans think that the U.S. needs to modernize its transportation system in order to remain economically competitive in the world. The survey found that individuals across party lines support transportation improvements. Voters also wanted to see cooperation among transportation leaders in Washington and favored safer streets and more transportation options as their top transportation priorities.

However, those surveyed indicated they did not favor increasing the gas tax, which helps explain Congress' delay in reaching agreement on a new transportation bill. With the likely passage of another short-term extension to the current program, local officials continue to support an increase in the federal gas tax to fund transportation programs, a new long term comprehensive program that provides for local decision-making, parity between highway and transportation programs and performance measures to ensure that limited funding goes to critical projects that enhance mobility and contribute to metropolitan economic growth and vitality.

Key Members of Congress Move to Create Nationwide Public Safety Communications Network

In both the Senate and House of Representatives, efforts are underway to create the framework for a Nationwide Public Safety Broadband Network that would significantly strengthen the communications capabilities of America's first responders.

The legislation would reallocate a section of spectrum known as the 700 MHz D Block to public safety, effectively doubling the high-quality spectrum available to first responders for secure wireless broadband services. The bills have been endorsed by NLC, state and local government organizations and major national public safety and law enforcement associations.

In the Senate, Sen. John D. Rockefeller (D-W.Va.), chairman of the Commerce, Science, and Transportation Committee, introduced the Public Safety Spectrum and Wireless Innovation Act (S.28) last month. This bill would take a comprehensive

approach to the problem, providing first responders and public safety officials with both additional wireless spectrum and funding resources to construct a nationwide network.

At a recent committee hearing on the Public Safety Spectrum and Wireless Innovation Act, Rockefeller explained that “Nearly 10 years after 9-11, and through daily crimes, car accidents, fires, medical emergencies and natural disasters — West Virginia first responders are still waiting for, and greatly need, an interoperable communications system.

“My bill, the Public Safety Spectrum and Wireless Innovation Act, would make sure that our public safety officials have that network — and would put the power of that technology directly into their hands where they can make smart and cost-effective decisions,” he said.

In the House of Representatives, Rep. Peter T. King (R-N.Y.), chairman of the Committee on Homeland Security, joined by Ranking Member Bennie G. Thompson (D-Miss.) and five others, introduced H.R. 607, the Broadband for First Responders Act of 2011. While the legislation is not identical, it will also strengthen the communications capabilities of America’s first responders by reallocating the D Block communications spectrum to public safety and provide a means to fund the network’s construction.

While in both instances the network would be controlled by emergency service personnel, the nationwide public safety broadband network could conceivably also be utilized for high-speed wireless services in non-emergency situations. The system build-out, maintenance and operations would likely be achieved

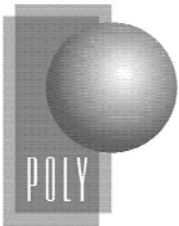
through state and local efforts with federal support, as well as public-private partnerships. The federal funding would all be found through the sale of other spectrum, creating no cost to taxpayers. Current estimates of spectrum sales would provide an excess \$10 billion that would be used to reduce the federal deficit.

Further, a new economic study released last week by former Federal Communications Commission staff and leading telecommunications academics finds that assigning the D Block to public safety, as opposed to subjecting it to a commercial auction, provides the nation with at least \$3.4 billion more in social benefit.

In a letter sent to Rockefeller endorsing his bill, NLC Executive Director Donald J. Borut commented, “If Congress fails to pass this legislation, our nation’s first responders will remain trapped in the current patchwork public safety communications systems, where neighboring jurisdictions — and often, local police and fire personnel — cannot communicate with one another or share information effectively.”

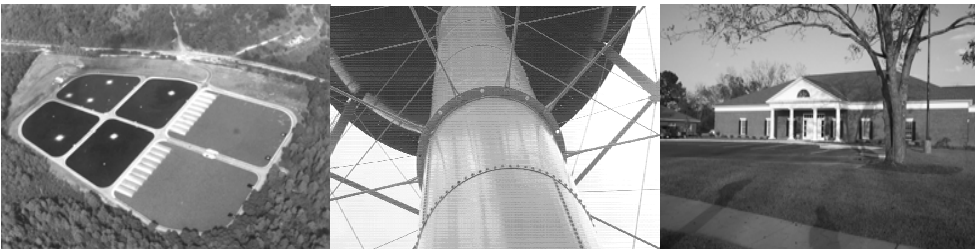
While predating the Administration’s broadband proposal, Rockefeller’s bill reflects the framework the President set out in his administration’s 2012 budget to bring high-speed wireless broadband access to 98 percent of Americans by leveraging under utilized radio spectrum.

NLC continues to emphasize the importance of the reallocation of the D Block and establishment of a Nationwide Public Safety Communications Network with allies both in the Administration and on Capitol Hill. ■



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The Legal Viewpoint

By Lori Lein
Deputy General Counsel



2010 Federal Decennial Census

The Census Bureau has released the final official results of the 2010 federal decennial census. A number of recent callers to the League have questioned the impact of the new population figures on the operation of municipal government. This article addresses those issues.

Statutory Provisions

The Code of Alabama 1975, establishes two effective dates for the census, one for the collection of taxes and one for all other non-revenue related matters. Section 1-3-5, Code of Alabama 1975 provides:

“The one hundred twentieth day after the first day of the first regular legislative session held next after the publication by the federal government of the regular federal decennial population census for Alabama is hereby fixed as the date for any reclassification under any law requiring classification based on such said census. The provisions of this section shall not apply to any law which provides for the levying or collection of license taxes on a population basis or the distribution of state and county collected or administered revenue or funds on a population basis, and the population as disclosed by any federal decennial census, as soon as the same is proclaimed, published or certified by the Director of the United States Census Bureau, shall be used in administering any such law.”

In construing the first sentence of Section 1-3-5, the Alabama Supreme Court has determined that in using the word “publication” the Legislature meant a “final, formal, official publication.” *Harralson vs. State*, 71 So.2d 79 (1953). However, the Court also stated that by saying in the second sentence that the census figures take effect for revenue purposes when they are “proclaimed, published or certified,” the Legislature did not require any formal publication.

Effect of the Census on Non-Revenue Matter

Municipalities with a mayor-council form of government have different organizational structures depending upon the population of the municipality. Municipalities with populations of 12,000 or more are governed by a council which operates without a vote of the mayor. While the mayor has no vote with the council, he or she has veto power over certain ordinances passed by the council. In municipalities with populations of

less than 12,000, the mayor sits as a voting member of the council and also serves as the presiding officer of the council. Therefore, once a municipality reaches a population of 12,000 or more inhabitants, the council procedures change. But exactly when does that change in municipal operation occur?

Section 11-40-6 of the Code of Alabama 1975, provides in part:

“At the next election more than four months after the one hundred twentieth day after the first day of the first regular business session of the legislature held next after the publication by the federal government of the regular federal decennial population census for Alabama, if the municipality shows a population which authorizes a change in its government under this title, the proper officers for such a city shall be elected and perform the duties prescribed in this title.”

Based on this, a change in the operation of the municipality as a result of a population change will not take place until the next municipal election which, in most of Alabama’s municipalities, will be in the summer of 2012. Further, municipalities with a population of 12,000 or more inhabitants are given the authority, within certain limitations, to establish the number of members on their council. See Section 11-43-40, Code of Alabama 1975. However, like the change in the operation of the council, these changes will not take place until the next municipal election. Similarly, only municipalities of more than 1,000 in population may become organized under the regular form of Commission Government set out in Article 1 of Chapter of 44 of Title 11, Code of Alabama 1975.

We often get calls from municipalities questioning whether their class of municipality changes when their population changes. Section 11-40-12 of the Code of Alabama 1975 establishes eight classes of municipalities based on population. Section 110 of the Official Compilation of the Alabama Constitution of 1901 (formerly Amendment 375), allows the Legislature to adopt legislation affecting one or more classes of municipalities based on the population classifications set out in Section 11-40-12. It is important to note, however, that the classifications found

in Section 11-40-12 are based on the 1970 federal decennial census and are not affected by subsequent census changes in population. Once a municipality is classified in a particular class, the class never changes even if the population of the municipality changes significantly.

In addition to potential changes in the form and operation of municipal government based on population, the municipal police jurisdiction is also affected by population changes. The police jurisdiction of municipalities having 6,000 or more inhabitants extends out 3 miles from the corporate limits and for municipalities with a population of less than 6,000 it extends out one and one half miles from the corporate limits. Section 11-40-10, Code of Alabama 1975. While there is no Alabama case interpreting the extension of the police jurisdiction as a result of a population change, it is the opinion of the League of Municipalities that the change would take effect on the date of reclassification set out by Section 1-3-5, Code of Alabama 1975 which is June 29, 2011.

Changes in population as a result of the census may also affect municipal court systems. The procedures for abolishing or re-establishing a municipal court are set out in Sections 12-14-17 and 12-14-19 of the Code of Alabama 1975. If a municipality takes such action on or after June 29, 2011, the waiting time prior to the change taking effect might be extended or shortened as a result of the 2010 census.



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When it comes to the publication or posting of ordinances, population also matters. Section 11-45-8 of the Code of Alabama 1975, provides, in part, that all municipalities with populations of less than 2,000 as shown by the 1950 federal decennial census have the option of posting their ordinances or publishing them in a newspaper. Since this section refers specifically to the 1950 census, the 2010 census has no impact on this option.

Although it is not possible to list all of the state laws governing municipalities that are affected by the 2010 federal decennial census, following is a list of the major ones that will take effect as of June 29, 2011:

- Article 3 of Chapter 42 of Title 11, Code of Alabama 1975, creates a method of annexation available to municipalities having a population of 25,000 or more inhabitants.
- Section 11-40-6 of the Code of Alabama 1975, that all municipalities with less than 2000 inhabitants shall be known as “towns, “ while those with 2000 or more inhabitants shall be known as “cities.”
- Article 4 of Chapter 6 of Title 14, Code of Alabama 1975, gives the Department of Corrections the authority to inspect and supervise municipal jails in all cities with a population of more than 10,000. Municipalities whose populations reach this figure will be subject to the jurisdiction of the Department of Corrections effective June 29, 2011.
- Section 25-5-13 of the Code of Alabama 1975 requires all municipalities of more than 2,000 in population to provide worker’s compensation for their employees.
- Sections 11-86-1 through 11-86-6 of the Code of Alabama 1975, provide for the creation of unincorporated recreation boards by municipalities of 100,000 population or less.
- Section 16-11-1 of the Code of Alabama 1975, gives all municipalities with a population of 5,000 or more the authority to establish a city board of education.
- Sections 11-43-180 through 11-43-190 of the Code of Alabama 1975, require all municipalities of 5,000 or more to have a personnel system for their law enforcement officers.
- Section 3-7-7 of the Code of Alabama 1975, requires all municipalities over 5,000 in population, in which a county animal shelter is not located, to maintain a suitable animal shelter.
- Article 1 of Chapter 2A of Title 28, Code of Alabama 1975, authorizes municipalities with populations of 1,000 or more to conduct an election upon the petition of 30% of the number of voters voting in the last preceding general election of the municipality to determine whether a dry municipality goes wet or vice versa for alcoholic beverage sales.

- Section 1-2A-8 of the Code of Alabama 1975 exempts municipalities with a population of 1000 or less from the requirement that the Alabama State Flag be flown at municipal buildings.
- Section 11-43-5.1 of the Code of Alabama 1975, authorizes municipalities with a population of 5,000 or less to establish or abolish a civil service/merit system for municipal employees.
- Section 11-47-231 of the Code of Alabama 1975, authorizes municipalities with a population of 34,000 or more to plan, build and operate parking facilities.
- Section 11-49-40 of the Code of Alabama 1975, provides that municipalities with a population of more than 35,000 “have full power and authority to require railroad companies to construct and maintain within the city limits viaducts, bridges, and tunnels or parts of viaducts, bridges, and tunnels and their approaches over, along, or under the tracks at their own expense, such bridges and their approaches, tunnels or other conveniences at public crossings and such viaducts and their approaches over their tracks where the same cross or extend along public highways or streets.”
- Section 32-5A-171 of the Code of Alabama 1975, prohibits municipalities with a population of less than 19,000 from enforcing speed limits on interstate highways.

Effect of the Census on Revenue

Many municipal revenue sources are affected by population. Section 1-3-5 of the Code of Alabama 1975, quoted above, provides that the decennial census figures can be used to determine all revenues based on population as soon as the census is proclaimed, published or certified by the Director of the U.S. Census Bureau. Municipalities which gain in population can expect an increase in revenues and those which lose population can expect decreases in revenues.

While not an exhaustive list, taxes affected by population include: ABC Board profits; automobile tag tax receipts; state gasoline taxes; privilege tax on oil and gas production; capital improvement fund monies; and municipal license taxes which may be based on population (such as licenses on telephone companies, telegraph companies, insurance companies other than fire and marine, express companies and railroads, waste grease collection).

The new census figures will have no effect on a municipality's share of certain other revenues including the financial institutions excise tax, TVA payments, the coal severance tax and the state taxes on beer and table wine as these taxes are not based on population.

Effect of the Census on Re-Districting

One final aspect of the census warrants discussion, and that is the impact of the census on municipalities which elect their officials from districts. Section 11-46-23 of the Code of Alabama 1975 authorizes a municipal governing body to divide the municipality into districts for the election of officers. This adjustment must be made more than three months prior to the election. Additionally, a number of Alabama municipalities were divided by court order.

A shifting municipal population may require redrawing these district lines. If the current district lines no longer eliminate the problems sought to be redressed by districting, these lines will have to be redrawn. Further, if a municipality was redistricted pursuant to a court order, it is possible that the court has retained jurisdiction and that the new lines must receive court approval before taking effect. All districted municipalities should closely examine their current districts and determine if they should be adjusted as a result of population shifts.

For More Information

While this article is a simple overview of the impact of the 2010 federal decennial census on Alabama's municipalities, it is our hope that it assists our members in better understanding some of the effects of population changes and shifts. Any questions should be directed to the Legal Department of the Alabama League of Municipalities. ■

Congratulations to the 2011 Officers of the Alabama Association of Municipal Clerks and Administrators



Pictured left to right: Laura Carmack, Lincoln, Treasurer; Lynn Porter, Trussville, Secretary; Gina Antolini, Columbiana, President-Elect; Peggy Shadix, Sylvan Springs, President; and Lynnette Ogden, Immediate Past-President

“We know we’re making the right call when we buy Cat® equipment.”

When the Public Works Department in Tuscaloosa County, Alabama, solicits bids for heavy equipment, purchase price is just one factor it considers, says Engineering Coordinator Michael Henderson. “If there’s a disaster in our area, we need to know our equipment, and our dealer will come through for us. We must know, beyond a shadow of a doubt, that the equipment is ready to work because response time is critical.”

Factoring in Life Cycle Costs when purchasing equipment is equally important to Mike. “It’s in the county’s best long-term interests to consider total costs. When we choose Cat® equipment, we can be confident we’re getting a quality machine, backed by a strong company and dealer. We also know that when it’s time to cycle it out, there will be value left in that equipment.”

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The National Institute of Governmental Purchasing (NIGP), National Association of State Procurement Officials (NASPO) and National Association of Fleet Administrators (NAFA) endorse the use of Life Cycle Costing as a preferred procurement method.



I BUY WITH CONFIDENCE

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Attalla, AL 35954
(256) 570-1100

Decatur
6969 US Highway 31
Tanner, AL 35671
(256) 353-7721

Marianna
3742 U.S. Hwy. 90 W.
Marianna, FL 32446
(850) 526-2241

Opelika/Auburn
302 Fox Run Ave.
Opelika, AL 36801
(334) 749-3359

Pensacola
2650 West Nine Mile Rd.
Pensacola, FL 32534
(850) 471-6700

Tuscaloosa
3550 Joe Mallisham Pkwy.
Tuscaloosa, AL 35401
(205) 247-2800

Tuscumbia
1410 S. Hook St.
Tuscumbia, AL 35674
(256) 381-2771

Birmingham
2401 Pinson Highway
Birmingham, AL 35217
(205) 841-8601

Dothan
118 Vulcan Way
Dothan, AL 36303
(334) 671-1040

Mobile
30950 State Hwy. 181
Spanish Fort, AL 36527
(251) 626-5100

Oxford/Anniston
2300 Hwy. 21 S.
Oxford, AL 36203
(256) 831-4104

Shelby County
2070 Corporate Woods Dr.
Alabaster, AL 35007
(205) 664-4833

Crestview
2106 3rd Ave.
Crestview, FL 32539
(850) 682-8510

Huntsville
3600 Governors Drive
Huntsville, AL 35805
(256) 532-1776

Montgomery
10120 Hwy. 80 E.
Montgomery, AL 36117
(334) 215-5000

Panama City
4109 Cato Rd.
Panama City, FL 32404
(850) 785-4007

Thomasville
2501 Joe Davis Industrial Blvd.
Thomasville, AL 36784
(334) 636-0420



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2011 EXPO Vendor Listing

The Alabama League of Municipalities' Annual EXPO provides convention delegates an opportunity to visit with numerous companies and state offices to learn about products and services for municipal officials and employees. Please take a moment to look over the list of this year's EXPO vendors and make sure to visit their booths during the convention.



EXPO

Huntsville 2011
Von Braun Center
May 1 - May 2

2011 Expo Hall Schedule

5:30 - 7:00 p.m., Sunday, May 1 - Exhibitor Showcase and Reception featuring heavy hors d'oeuvres and the Kings of Swing.

10:30 a.m., Monday, May 2 - Exhibits open in the South Hall 1, Von Braun Center following Opening Session.

- Dessert will be provided in the Expo Hall immediately following the Monday luncheon.
- **Door Prizes** - Make sure you register at participating booths! A list of winners will be posted in the Expo Hall by the Exhibit Information desk during the dessert reception immediately following the Monday luncheon. Please check to see if you've won a prize and, if so, pick it up from the appropriate vendor *prior to* 4 p.m.

4:00 p.m., Monday, May 2 - Exhibits Close

(The following is a list of vendors that had registered at press time. A final list will be included in the convention registration packets.)

Company	Booth #	Company	Booth #
A to Z Muni-Dot Company	107	CSI Technology Outfitters	1003
Absolute Aeration	301	CXT Concrete Buildings	205
Advanced Disposal Service	110	Dixie Decorations, Inc.	200
Affinity Benefit Solutions	101	DMD Engineers	808
Alabama 811	803	Eco-Tech, Inc.	907
Alabama Cable		Emergency Communications Network	804
Telecommunications Association	300	Empire Pipe and Supply	106
Allied Waste	700	Engineered Restorations, Inc.	809
Ameresco, Inc.	1104	Godwin-Jones Architecture	
American Fidelity Assurance Group	400	and Interior Design, Inc.	206
American Municipal Services	605	Gorrie-Regan and Associates	1110
American Traffic Solutions	1202	GovDeals, Inc.	201
AMFund	1101	Grasshopper Company	701,801
AMIC	1200	Holiday Designs	1001
AMIC – Loss Control	1201	Holophane Lighting	1002
A T & T	104	Ingram Equipment	B1
Barfield, Murphy, Shank and Smith, CPA	1007	J. A. Dawson and Company	903,904,905
Bay Benefits Group	504	Jackson Thornton	500
BB&T	1103	Jefcoat Recreation and Construction	800
Black Mountain Software, Inc.	100	Judicial Correction Services	1108
Bren, Inc.	505	Kellum, Wilson and Associates	1109
Caldwell Tanks, Inc.	705	KHAFRA Engineers and Architects	1006
Carr, Riggs, and Ingram	102	Kidz Zone Play Systems	304,404
CDG Engineers and Associates, Inc.	900	Kossen Equipment, Inc.	1004
Central Pipe Supply, Inc.	901	Kronos, Inc.	507
Civic Plus	604	Ladd Environmental Consultants, Inc.	204
Columbia Southern University	410	Local Government Corporation	1000
Contact Network/InLine	702	Mauldin and Jenkins CPA, LLC	806

continued on page 15



RDS
Smart Government Awards

2010
Small Municipality Award Winner

Presented to
City of Guntersville, Alabama



From left to right: Pete Yonce (RDS); Councilman Wayne Sellers; Stephen Morris (RDS); Lesa Bellin (Recycling Coordinator); Carl Fulmer (Ordinance Enforcement Officer); Milla Sachs (Executive Assistant to the Mayor); Councilman Rudy Cornelius; Dan Warnes (City Attorney); Mayor Robert L. Hembree, Jr.; Councilman Charlie Williams; Renea Bradley (Personnel Director); Councilman Randy Whitaker; Betty Jones (City Clerk); Grant DeMuth (Director Economic Development); Leigh Dollar (City Auditor, Dollar & Watson, Sponsor of the State of the City).

Revenue Discovery Systems (RDS) presented its final 2010 Smart Government Award (SGA) in the Small Municipality category to the City of Guntersville, Ala. Under the leadership and direction of Mayor Robert L. Hembree, Jr., the city expanded recycling collection efforts, implemented "paperless" practices in the police department, and motivated community members to contribute to litter prevention among other

cleanup efforts.

City of Guntersville officials made recycling and waste reduction a priority. Existing environmental efforts were further enhanced in a cost effective manner through revised procedures and practices. Many recycling programs have been in place for some time, including the collection of paper, glass, aluminum cans, tin/steel cans, plastics, cardboard, motor oil, and scrap metal.

RDS
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Company	Booth #	Company	Booth #
McKee and Associates	603	Star Recycling	502
Municipal Code, MccInnovations and MccAdvantage	202	Sternberg Lighting	203
Municipal Revenue Services	1204	Status Station	1010
Municipal Worker's Compensation Fund	1100	Sunbelt Fire	802
Musco Sports Lighting	704	Tank Pro	407
NAFECO	H1	TECGEN	703
Official Payments Corporation	607	The Aviation Council of Alabama, Inc.	406
Playscapes of Alabama	906	The EZ Street Company	902
Polyengineering	401	The Kelley Group	105
Provident Agency, Inc.	807	TriNovus	405
S & ME, Inc.	810	Utility Service Company, Inc.	503
Sansom Equipment	A1	Veolia Environmental Services	600
Severn Trent Services	103	Volkert, Inc.	305
Slaughter and Associates	501	Waste Pro of Alabama	601
SMW Engineering	707	Weller Pools, LLC	910
Southern Playgrounds	1106,1107	Wells Fargo	602
		Wilson Price CPAs and Consultants	1102

State Agencies that will be in Huntsville (Booths have not been assigned at this time.)

ADECA – Alabama Advantage
Alabama Association of Municipal Clerks
and Administrators
Alabama Attorney General's Consumer Affairs
Alabama Career Center
Alabama City/County Management Association
Alabama Clean Fuels Coalition
Alabama Cooperative Extension System
Alabama Correctional Industries
ADEM - Brownfields-Voluntary Cleanup Program
Alabama Industries for the Blind

Alabama Municipal Revenue Officers Association
Alabama Public Library Service
Alabama Recreation and Parks Association
ALL Kids – Alabama Department of Public Health
Center for Governmental Services – Auburn University
Design Alabama
Employer support of the Guard and Reserve (ESGR)
National Property Management Association
Retirement Systems of Alabama
State Employees' Insurance Board

Kings of Swing to Perform During Sunday Evening Expo Reception

Back by popular demand, "Kings of Swing", directed by former mayor Steve Means of Gadsden, will play for convention attendees during the Sunday evening (May 1st) reception from 5:30 until 7:00 in the Expo Hall. Delegates and guests will enjoy a variety of toe-tapping Swing-era music as they mingle with more than 125 vendors exhibiting at this year's tradeshow.

Means formed Kings of Swing in 1994 with the help of Rip Reagan, the band director at Gadsden State Community College, when the Center for Cultural Arts in Gadsden needed a swing band for a party celebrating the 50th anniversary of the United States victory in World War II. The band was an instant success, playing covers such as Woody Herman's "Woodchoppers Ball" and Glenn Miller's "Moonlight Serenade," as well as some original pieces written by Reagan. The World War II celebration was such a hit that the Kings of Swing have been playing ever since.

Kings of Swing, which is made up of a variety of area musicians, was profiled in the June 2004 issue of Southern Living and has performed several times for the League's annual convention.

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

Courts: A Circuit Court's issuance of an injunction against officials of the Department of Revenue preventing the enforcement of any future search warrants directed at the operator of automobile dealerships violated the separation of powers provision of the Alabama Constitution. *Ex parte Dangerfield*, 49 So.3d 675 (Ala.2010)

Courts: Evidence was insufficient to support a conviction for receiving stolen property where the property was part of a sting operation and was not actually stolen. *Rich v. State*, 49 So.3d 734 (Ala. Crim.App.2009)

Legislation: A legislative Act that ratified, validated and confirmed collection of occupational taxes which were determined to be illegal was the equivalent of an impermissible legislative determination that there could be no recovery of these illegally collected taxes and is contrary to the constitutional prohibition against taking away a cause of action. *Jefferson County Com'n v. Edwards*, 49 So.3d 685 (Ala.2010)

Legislation: A proposed state constitutional amendment that would require funding recipients to employ state residents would violate the Commerce Clause. *Opinion of the Justices*, 49 So.3d 1181 (Ala.2010)

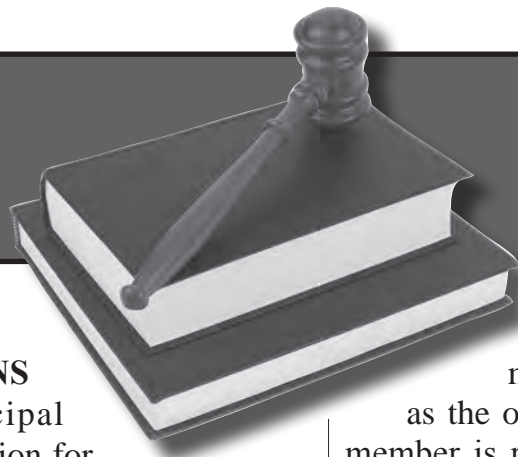
Personnel Board: In order for a Personnel Board's decision upholding the termination of an

employee to be affirmed, that decision would have to be supported by substantial evidence, which, in an administrative context is relevant evidence that a reasonable mind would view as sufficient to support the determination. When a fact finder determines that a witness has been willfully untruthful, that court may disregard all of that witness' testimony or any part thereof. *Alabama State Personnel Bd. v. Dueitt*, 50 So.3d 480 (Ala.Civ.App.2010)

Taxation: A business that sold materials from spoil piles that remained on its site after other companies' mining operations had ended, was a "producer" as defined by the Alabama Uniform Severance Tax Act, and, thus, the severance tax applied to severed materials purchased from the business and the business was responsible for the collection of the severance tax, even though it had never been engaged in mining or quarrying operations. The business processed the materials that had been severed from the ground during the mining operations and sold them to purchasers on whom the tax was levied. *Wilburn Quarries, LLC v. State Dept. of Revenue*, 50 So.3d 1078 (Ala.Civ. App.2010)

UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Courts: The existence of an emergency or the parties' perception that an emergency is ongoing is among the most important circumstances that courts must take into account in determining whether an interrogation is testimonial under the confrontation clause because statements made to assist police in addressing an ongoing emergency presumably lack the testimonial purpose that would subject them to the requirement of confrontation. *Michigan v. Bryant*, --- S.Ct. ----, 2011 WL 676964 (U.S.2011)



DECISIONS FROM OTHER JURISDICTIONS

Civil Rights: Municipal permits constitute state action for Section 1983 purposes. *Watchtower Bible and Tract Society of New York, Inc. v. Segardia De Jesus*, --- F.3d ----, 2011 WL 381609 (1st Cir. 2011)

Criminal Law: An ordinary cell phone capable of making calls and sending texts qualifies as a “computer” for purposes of the Computer Fraud and Abuse Act. *U.S. v. Kramer*, --- F.3d ----, 2011 WL 383710 (8th Cir. 2011)

ATTORNEY GENERAL’S OPINIONS

Boards: Section 46-16-60, Code of Alabama, was intended to prohibit successful bidding by any member of a governing board of an instrumentality of a municipality and by business entities in which he has an interest, if such member will have a financial or beneficial interest, either directly or indirectly, in the award contract where such member will be or can be involved in the decision-making procedure as to who will receive the award contract. AGO 2011-037

Employees: After the effective date of Act 2010-761, which is March 20, 2011, and after preclearance is received, no employee of the State of Alabama, a county, a city, a local school board or any other governmental agency may arrange, by salary deduction or otherwise, for any payments for the membership dues of any person employed by the governmental agency to be made to a membership organization that uses any portion of the dues for political activities as defined in the act. AGO 2011-038

Impeachment – Officers: A member of a water and gas board, organized under section 11-50-310, et seq., Code of Alabama, may be

removed for certain causes. The member has the same voting privileges as the other members of the board until the member is removed. Impeachment proceedings may be initiated by a grand jury and prosecuted by the district attorney or initiated by five resident taxpayers. AGO 2011-040 ■

FAQ.

Who is in charge of preparing the “agenda” for a council meeting?

The council determines its own rules of procedure, except where otherwise provided by law. See Section 11-43-52, Code of Alabama. The council may establish a procedure for creating a “preliminary agenda” prior to the meeting and establish the person or persons responsible for putting the “preliminary agenda” together. If a “preliminary agenda” is created, it must be posted as soon as practicable in the same location or manner as the notice of the meeting. If a “preliminary agenda” is not available, the posted notice must include a general description of the nature and purpose of the meeting. See Section 36-25A-3, Code of Alabama.

It should be noted that the “preliminary agenda” does not become the “official” agenda until adopted by a vote of the council. The proposed agenda is followed as a guide by the chair pending its formal adoption. See Robert’s Rules of Order *Newly Revised* (10th ed.) p. 361, l. 10-11. An affirmative vote to adopt an agenda may not be reconsidered. After an “official” agenda has been adopted no change can be made in it except by a vote of the council. See Robert’s Rules of Order *Newly Revised* (10th ed.) p. 360, l. 18-30.

The presiding officer is delegated the authority to make necessary rulings on questions of parliamentary law. Ordinarily, when the procedure that has been established by the council is not followed then any council member may call for a point of order and appeal rulings of the chair to the entire governing body. Usually this appeal must be taken before the next order of business is addressed or the right to appeal is lost. See Robert’s Rules of Order *Newly Revised* (10th ed.) pp. 247-252. ■



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2011 Annual Convention

Von Braun Center
Huntsville, Alabama
April 30 – May 3, 2011

2011 Convention Schedule

Meetings and/or events subject to change. CMO credits can be earned. See official convention program for details.

Saturday April 30, 2011

10:00 a.m. – 5:00 p.m.

Registration: Von Braun Center

11:00 a.m.

Resolutions Committee Meeting

1:00 p.m.

AMIC Annual Meeting

3:00 p.m. – 5:00 p.m.

Opening Session

Invocation

Presentation of Colors

Pledge of Allegiance

National Anthem

Welcome: Tommy Battle, Mayor, Huntsville

President's Address: Charles Murphy, Mayor, Robertsdale
President, Alabama League of Municipalities

Address: James Mitchell, Councilmember, Charlotte, NC
President, National League of Cities

2011 Quality of Life Awards Presentations
Perry C. Roquemore, Jr, Executive Director, ALM

6:00 p.m.

**City of Huntsville Welcome Party
U.S. Space and Rocket Center**



CONVENTION 2011

2011 Convention Schedule

Sunday May 1, 2011

CONVENTION 2011

7:30 a.m.

Annual Golf Tournament (*see below*)

10:00 a.m.

Prayer Service

1:00 p.m. – 5:00 p.m.

Registration: Von Braun Center

1:30 p.m. – 4:30 p.m.

Roundtable Discussions by Population



Municipalities under 2,500

Municipalities 2,500-5,000

Municipalities 5,001-12,000

Municipalities 12,001 – 20,000

Municipalities over 20,000

4:30 p.m. – 6:00 p.m.

ABC -LEO Reception

5:30 p.m. – 7:00 p.m.

Exhibitors Showcase and Reception

Entertainment: Kings of Swing (*see page 15*)

2011 Alabama Municipal Masters



The 43rd Annual Alabama Municipal Masters Golf Tournament will be held at the Hampton Cove Golf Course in Huntsville on Sunday morning, May 1, 2011, starting at 7:30 a.m. The tournament will be a four-player scramble with a shotgun start. All registered delegates and guests are invited to participate in the golf tournament by registering online at www.alalm.org.

Teams must be as equal as possible. Teams registering as foursomes must consist of an A, B, C, and D player.

“A” Player = Avg. score 80 or below; “B” = Avg. 81 to 90; “C” = Avg. 91 to 100; “D” = Avg. 101 or Above

An awards luncheon will be held following the tournament at the golf course. Prizes will be awarded to the first, second and third place finishing teams. Individual Prizes will also be awarded: Closest to the Pin, Longest Drive, and many great door prizes. You must be present at the luncheon to win a door prize.

Prize Eligibility: To be eligible to win an individual prize, a participant must be a municipal official or a municipal employee or their spouse, and the participant must be registered for the convention. Neither vendors nor sponsors are eligible for individual prizes. To be eligible to win a team prize, a foursome must include at least one convention delegate.

To register visit www.alalm.org/ConventionPage

2011 Convention Schedule

Monday May 2, 2011

CONVENTION 2011

8:00 a.m. – 5:00 p.m.	Registration: Von Braun Center
8:30 a.m. – 9:00 a.m.	Coffee Break
8:30 a.m. – 9:30 a.m.	Clerks Breakfast and Business Meeting
8:30 a.m. – 5:00 p.m.	Alabama Association of Public Personnel Administrators
9:00 a.m. – 10:30 a.m.	GENERAL SESSION: Declarations of Independents John Avlon, Political Columnist and Author <i>(see page 26 for more information)</i>
9:30 a.m. – 11:00 a.m.	Spouses Breakfast
9:30 a.m. – 5:00 p.m.	Municipal Clerks Program
10:30 a.m. – 4:00 p.m.	Exhibits Open
10:30 a.m. – 11:00 a.m.	Coffee Break in Exhibit Hall
11:00 a.m. – 12:00 p.m.	Concurrent Sessions <i>(choose from the following)</i> MS4 Permitting and New Drinking Water Standards Glenda Dean, Water Division Director, ADEM Redistricting John Tanner, Retired Chief of the Voting Section Civil Rights Division, U.S. Justice Department The Anatomy of Municipal Financial Reporting: 5 Key Concepts Every Elected Official Should Know & Understand Billy Daniels, CPA, CGFM and Lee Parks, CPA, Wilson Price
12:15 p.m. – 1:45 p.m.	LUNCHEON Invocation Speaker: Dr. Robert Bentley, Governor, State of Alabama Awards Presentations: Design Alabama and ACE
1:45 p.m. – 2:15 p.m.	Dessert in Exhibit Hall
2:30 p.m. – 3:30 p.m.	Concurrent Sessions <i>(choose from the following)</i> Working with Boards: School Boards & Housing Authorities Lewis McDonald, President, AAHRA Sally Howell, Executive Director, AASB Dealing with 2010 Census & Voting Rights Act Bailout Issues John Tanner, Retired Chief of the Voting Section Civil Rights Division, U.S. Justice Department Lori Lein, Assistant General Counsel, ALM

continued on page 23

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2011 Convention Schedule

Monday May 2, 2011 (Continued)

CONVENTION 2011

3:30 p.m. – 3:45 p.m.

Brownfield Redevelopment Opportunities in Alabama
Larry Bryant, PE, Chief Environmental Services Branch,
ADEM

Break

3:45 p.m. – 5:15 p.m.

ANNUAL BUSINESS SESSION

Report of the Executive Director

Report of the Municipal Workers Compensation Fund, Inc.

Report of the Alabama Municipal Insurance Corporation

Report of the Alabama Municipal Funding Corporation

Presentation of Resolutions

Report of Nominating Committee

Report of Site Selection Committee

6:00 p.m. – 7:00 p.m.

Reception

7:15 p.m.

President's Banquet

Invocation

Presentation of League Distinguished Service Awards

Recognition of Certified Municipal Officials

(Scrolling on large screen at front)

Recognition of Risk Management Award Winners

(Scrolling on large screen at front)

Installation of Officers and President's Address

**Retirement Reception honoring Perry C. Roquemore, Jr.
immediately following the banquet.**



2011 Convention Schedule

Tuesday May 3, 2011

8:00 a.m. – 8:30 a.m.

Coffee Break

8:30 a.m. – 10:00 a.m.

GENERAL SESSION: The New Ethics Law

Jim Sumner, Executive Director,
Alabama Ethics Commission
Hugh Evans, General Counsel,
Alabama Ethics Commission

10:00 a.m. – 10:30 a.m.

Coffee Break

10:30 a.m. – 12:00 p.m.

Ask Your Attorney Panel

ALM's Legal Staff

Noon

Adjourn

CONVENTION 2011



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for Convention May 19 - 22, 2012

CONVENTION 2012

Alabama Theatre, photo by Jeffrey Greenburg

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- ✓ Hale HPX300 pump with 26 HP Briggs & Stratton diesel engine
- ✓ Walk around rescue/skid body, front ground sweep nozzles
- ✓ Front transverse compartment for stokes basket/back board storage
- ✓ Under bed compartment for long handle tool storage
- ✓ Kussmul battery charger system, power inverter with receptacles
- ✓ Warn 12,000 lb. winch, stainless steel grille guard and brush guard
- ✓ Whelen LED light bar and Code 3 perimeter warning lights



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Political Columnist and Author of *Wingnuts: How the Lunatic Fringe is Hijacking America to Address Delegates during the Monday Morning General Session*



John Avlon 4 Photo © Sigrid Estrada

The Monday morning General Session of the League’s Annual Convention in Huntsville will feature **John Avlon**, senior political columnist for The Daily Beast and the author of *Wingnuts: How the Lunatic Fringe is Hijacking America* as well as *Independent Nation: How Centrists Can Change American Politics*. He has been a columnist and associate editor for the New York Sun and is the creator of the “Wingnuts of the Week” segment on CNN. He is currently on sabbatical as a senior fellow at the Manhattan Institute.

Avlon was the youngest and longest-serving speechwriter in Mayor Giuliani’s City Hall. After the attacks of September 11th, 2001, he and his team were responsible for writing the eulogies for all firefighters and police officers murdered in the destruction of the World Trade Center. Avlon’s essay on the attacks, “The Resilient City” concluded the anthology *Empire City: New York through the Centuries* and won acclaim as “the single best essay written in the wake of 9/11.”

Avlon has appeared on The Daily Show with Jon Stewart, CNN, Fox News, MSNBC, PBS, and C-Span. He has spoken at the Kennedy

School of Government, the Citadel, the State Department’s visiting journalist program, and civic organizations around the nation. In a profile, author Stephen Marshall wrote “Avlon talks about politics the way ESPN anchors wrap up sports highlights.” Columnist Kathleen Parker wrote, “Americans who are fed up with the Ann Coulter/Michael Moore school of debate and are looking for someone to articulate a commonsense, middle path, may have found their voice in John Avlon.”

He is married to Margaret Hoover and they live in New York City. For more information, visit www.johnavlon.com.

2011 Municipal Flag Showcase

The League plans to have a Municipal Flag Showcase at this year’s ALM Annual Convention in Huntsville. The displayed flags will line the entrance to the Expo Hall. Other Leagues around the country have implemented similar presentations that have become a great source of pride for their member municipalities.

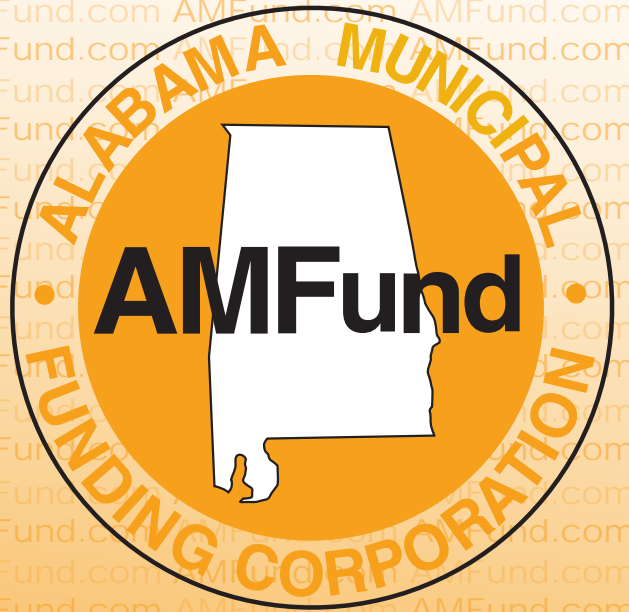
- Flags will be displayed Sunday, May 1, 2011, 5:30 – 7:00 p.m., in Huntsville at the Von Braun Center. The flags will line the entrance to the Expo Hall.
- What size flag? The standard size flag is 3 feet by 5 feet. Flag sizing should be close to this size.
- What height flag pole? The average height is 6 feet to 8 feet. The height should not be over 8 feet if at all possible.
- Flags should be checked in at the main ALM Convention Registration Desk no later than 3:00 p.m. on Sunday, May 1, 2011.
- ALM will provide a placard for each flag identifying the Municipality.
- Each Municipality may have a representative who is attending the Convention to be present with your flag during this event. The representative is to be present no later than 5:00 p.m.
- Flags must be picked up from the display area NO LATER than 7:15 p.m. on Sunday, May 1, 2011. Flags will not be stored. The League is not liable for flags or stands not picked up by this time.
- You must provide a flag stand for your Municipal Flag. Please label your flag stand with your contact information.
- **Deadline for submitting an application is April 15! (Contact Sharon Carr for an application at sharonc@alalm.org or 334-262-2566.)**
- A confirmation will be emailed to you prior to this event.

Questions? Contact Sharon Carr at sharonc@alalm.org or 334-262-2566.



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