



## CITY OF MOUNTAIN BROOK

P. O. Box 130009  
 Mountain Brook, Alabama 35213-0009  
 Telephone: 205.802.2400  
 www.mtnbrook.org

**2022 Candidate(s) for Elected Office Table of Contents**  
**City of Mountain Brook**  
**Information Packet**

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**DISCLAIMER**

This information packet is provided as a service to persons interested in running for public office in the City of Mountain Brook, Alabama in the general municipal election to be held August 23, 2022, with a run-off on September 20, 2022, if necessary. The use of this information is at the sole risk of the user. It is the responsibility of the user to verify any information provided (or inadvertently omitted). The City of Mountain Brook, its officers, and employees which may distribute this information disclaim any responsibility or liability for failure to comply with any filing requirement or any other election law.



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## Notice of Election of Municipal Officers City of Mountain Brook, Alabama

Notice is hereby given that on Tuesday, August 23, 2022, an election for the purpose of electing three (3) members to the City Council (places 1, 3 and 5) will be held. All registered and qualified electors of the state, who reside within the corporate limits of the City of Mountain Brook, Alabama, and have resided therein for thirty (30) days or more immediately preceding the date of the election, and who are qualified to vote in the county precinct which embraces and covers that part of the corporate limits of the city in which the elector resides, will be authorized to participate in the election.

The polls will be opened from 7 a.m. until 7 p.m. at the following locations (City Ordinance No. 1950):

<b>Polling District</b>	<b>Polling Location</b>
<u>No.</u> 1	St. Luke's Episcopal Church (Precinct 46, Box 8), 3736 Montrose Road, 35213
2	City Hall (Precinct 46, Box 9), 56 Church Street, 35213
3	Brookwood Baptist Church (Precinct 48, Box 6), 3449 Overton Road, 35223
4	Mountain Brook Community Church (Precinct 48, Box 4), 3001 U. S. Highway 280, 35243 (GPS mapping location: 4428 Cahaba River Road, 35243)
5	Canterbury United Methodist Church (Precinct 46, Box 7), 350 Overbrook Road, 35213
6	Cherokee Bend Elementary (Precinct 45, Box 2), 4400 Fair Oaks Drive, 35223

If necessary, a run-off election (§11-46-55(d)) will be held on Tuesday, **September 20, 2022** (§11-46-21(a)).

Any qualified elector who has resided within the municipality for a period of at least 90 days on Election Day may qualify to run for office by filing the appropriate forms and paying any appropriate fees, as otherwise prescribed by law. The period of candidate(s) qualification commences at 8 a.m. on June 14, 2022 and ends at 5 p.m. on June 28, 2022.

/s/ Stewart Welch III, Mayor

**State of Alabama:  
Minimum Qualifications for Public Office**

Office	Minimum Age	State Resident	US Citizen	Term of Office	Term Limit
Mayor <sup>1 &amp; 2</sup>	18	90 days	1 day	4	None
City Council <sup>1 &amp; 3</sup>	18	90 days	1 day	4	None

<sup>1</sup> **Section 36-2-1**

**Persons not eligible to hold state office; holding of state and federal offices of profit or two state offices of profit.**

(a) The following persons shall be ineligible to and disqualified from holding office under the authority of this state:

- (1) Those who are not qualified electors, except as otherwise expressly provided;
- (2) Those who have not been inhabitants of the state, county, district or circuit for the period required by the constitution and laws of the state;
- (3) Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, larceny, bribery or any other crime punishable by imprisonment in the state or federal penitentiary and those who are idiots or insane;
- (4) Those against whom there is a judgment unpaid for any moneys received by them in any official capacity due to the United States, this state or any county or municipality thereof; and
- (5) Soldiers, seamen or marines in the regular Army or Navy of the United States.

(b) No person holding an office of profit under the United States shall, during his continuance in such office, hold any office of profit under this state, nor shall any person hold two offices of profit at one and the same time under this state, except constables, notaries public and commissioners of deeds.

*(Code 1852, &sect;105; Code 1867, &sect;144; Code 1876, &sect;149; Code 1886, &sect;241; Code 1896, &sect;3056; Code 1907, &sect;1467; Code 1923, &sect;2575; Code 1940, T. 41, &sect;5.)*

# City Election Calendar (2022)

<b>Date</b>	<b>Action</b>	<b>Reference</b>
June 14, 2022	Mayor gives notice of election. Candidates may begin qualifying at City Hall once notice is published.	§11-46-22(a)
	Candidates must file a Statement of Economic Interests (SEI) form <u>WITH THE ALABAMA ETHICS COMMISSION</u> in order to appear on the ballot. For questions about the SEI contact the Alabama Ethics Commission at 334-242-2997.	§36-25-15(a)
June 28, 2022	Last day, by 5 p.m. to qualify for municipal office	§11-46-25(g)
July 5, 2022	Last day for candidates who qualify on June 28th to file an Appointment of Principal Campaign Committee form with the PROBATE JUDGE.	§17-5-4
	Also, last day for clerk to notify the Alabama Ethics Commission the name of the candidate and the date on which the person became a candidate.	§36-25-15(b)
July 24, 2022	Last day to establish residency to vote in the general municipal election.	§11-46-38(b)
July 26, 2022	Mayor must deliver absentee election supplies to the city clerk. (28 days before election)	§17-11-12
August 8, 2022	Last day for Council to appoint election officials. (15 days before election)	§11-46-27
	Also, last day to register to vote for the municipal election. (14 days before election)	§17-3-50, §11-46-38
August 9, 2022	First day to publicly test the electronic vote counters.	
August 12, 2022	Last day to publish lists of the election officers and voting places to which they are assigned.	§11-46-27
August 15, 2022	Beginning on this day, any absentee applicant who has not included a copy of acceptable ID but who is otherwise qualified to vote shall be issued a provisional absentee ballot.	Act 2019-507

<b>Date</b>	<b>Action</b>	<b>Reference</b>
August 18, 2022	Last day for a voter to apply for a regular absentee ballot.	§17-11-3(a)
	Last day to publish list of qualified voters.	§11-46-36
	Last day to conduct training school for official who will conduct an election using the electronic voting machines, not less than 5 days before an election.	§17-8-9
August 22, 2022	Last day, up to the close of business, for a voter to apply for and submit an emergency absentee ballot if they: 1. Are required by employer to be unavailable to vote at the polls; 2. Are a caregiver of a person who requires emergency treatment within five days of an election; or 3. Has a family member to the 2nd degree of kinship who dies within 4 days of the election.	§17-11-3(d) as amended by Act 2019-509
	Last day, up to the close of business, for a voter to hand-deliver absentee ballot.	§17-11-3(c) §17-11-18 §17-11-3(c) §17-11-18
	If an absentee ballot is returned by mail, it must be postmarked by August 22 AND received by noon the day of the election.	
August 23, 2022	Election day	§11-46-21
August 30, 2022	Canvassing of election results	§11-46-55 §11-46-46
September 1, 2022	Deadline for anyone with standing to contest the election to request a recount (must be within 48 hours of the election canvass)	§11-46-55.1
September 5, 2022	Last day a candidate may contest the results of the general election.	§11-46-69
September 8, 2022	Last day to file certificates of election for general election with probate judge, Secretary of State and Alabama League of Municipalities.	§11-46-55
November 7, 2022	Newly elected officials take office.	§11-46-21(c)
	Council meets for its organizational meeting.	§11-43-44
	<b>ELECTION RUN-OFF</b>	
September 2, 2022	Last day to deliver absentee ballots and supplies to city clerk.	§17-11-12

<b>Date</b>	<b>Action</b>	<b>Reference</b>
September 5, 2022	Last day for Council to appoint election officials.	§11-46-27
	Also, last day to register to vote for the municipal election.	§11-46-38 Ala. Admin. Rule 307-x-1-.04
September 6, 2022	Last day to publicly test electronic vote counters.	
September 12, 2022	Beginning on this day, any absentee applicant who has not included a copy of acceptable ID but who is otherwise qualified to vote shall be issued a provisional absentee ballot.	Act 2019-507
September 15, 2022	Last day for a voter to apply for a regular absentee ballot.	§17-11-3(a)
	Last day to publish list of qualified voters.	§11-46-36
	Last day to conduct training school for official who will conduct an election using the electronic voting machines, not less than 5 days before an election.	§17-8-9
September 19, 2022	Last day, up to the close of business, for a voter to apply for and submit an emergency absentee ballot.	§17-11-3(d) as amended by Act 2019-509
	Last day, up to the close of business, for a voter to hand-deliver absentee ballot.	§17-11-3(c) §17-11-18
<b>September 20, 2022</b>	<b>Run-off election day</b>	<b>§11-46-2 (§11-46-21)</b>
September 21, 2022	Deadline to notify voters whose absentee ballots have become provisional due to inspector's personal knowledge that voter was not eligible to vote.	§17-10-2(c)(3)(b)
	Deadline, by noon, for clerk to deliver written affirmations of provisional voters, inspector challenge statements, and al voter re-identification forms to the board of registers	§17-10-2(d)
September 23, 2022	Last day, no later than 5 p.m., for an absentee voter to submit identification to the board of registrars	§17-10-2(c)(1)(b)(2)
September 27, 2022	Election canvass commencing at noon	§11-46-55 §11-46-46
September 29, 2022	Deadline to request a recount (must be within 48 hours of the election canvass on October 13)	§11-46-55.1

<b>Date</b>	<b>Action</b>	<b>Reference</b>
October 3, 2022	Last day a candidate may contest the results of the run-off election	§11-46-69
October 6, 2022	Last day to file certificates of election for run-off election with probate judge, Secretary of State and Alabama League of Municipalities.	§11-46-55
	<b><u>MUNICIPAL POST ELECTION CALENDAR</u></b>	
February 23, 2023	The clerk shall destroy the contents of the ballot boxes for the municipal general election unless there is notification that the election has been contested, six (6) months after the election	§11-46-46
	The clerk no longer must preserve written notices for withdrawal of candidates in municipal general election, six (6) months after the election.	§11-46-25
March 20, 2023	The clerk shall destroy the contents of the ballot boxes for the municipal run-off election unless there is notification that the election has been contested, six (6) months after the election.	§11-46-46
	The clerk no longer must preserve written notices for withdrawal of candidates in municipal run-off election, six (6) months after the election.	§11-46-25
	<b><u>FAIR CAMPAIGN PRACTICES ACT (FCPA) DEADLINES</u></b> (FCPA forms are available from the Probate Judge or the Secretary of State and can be downloaded at <a href="http://www.sos.alabama.gov">www.sos.alabama.gov</a> )	
	All FCPA forms for municipal elections must be filed with the PROBATE JUDGE in the county where the city hall of the municipality is located. Every candidate must establish a PRINCIPAL CAMPAIGN COMMITTEE (PCC) by filing the required form WITHIN FIVE (5) DAYS OF BECOMING A CANDIDATE regardless of whether the candidate has reached the \$1,000.00 threshold. A person becomes a candidate whenever he or she either (1) reaches the disclosure threshold by either raising or spending in excess of one thousand dollars (\$1,000), or (2) formally qualifies to run for office.	
	For questions regarding the FCPA, call the Secretary of State's Election Division at 334-242-7210. Be sure to say "I have questions about the FCPA".	
August 23, 2021	First day candidates for municipal elections can raise or	§17-5-7(b)(2)



Date	Action	Reference
	spend money.	
	Once a candidate reaches the disclosure threshold by raising or spending in excess of \$1,000*, the PCC must file disclosure reports as follows:	
	<b><u>MONTHLY CAMPAIGN REPORT DEADLINES:</u></b>	
	September 6, 2021	
	November 8, 2021	
	December 6, 2021	
	January 3, 2022	
	February 7, 2022	
	March 7, 2022	
	April 4, 2022	
	May 2, 2022	
	June 2, 2022	
	July 5, 2022	
	<b><u>WEEKLY CAMPAIGN REPORT DEADLINES:</u></b> (A candidate who is required to file a weekly report is not also required to file a monthly report the month of the election)	
	August 1, 2022	
	August 8, 2022	
	August 15, 2022	
	August 22, 2022	
	<b><u>RUN OFF ELECTION:</u></b>	
	September 5, 2022	
	September 12, 2022	
	September 19, 2022	
	<b><u>ANNUAL REPORT DEADLINE:</u></b>	
January 31, 2023	* Major Contribution Report - candidates must disclose the receipt of any single contribution of \$20,000 or more within two (2) business days of receiving the contribution if it is not included in a monthly or weekly report.	§17-5-8.1(c)
	<b><u>OTHER IMPORTANT FCPA DATES:</u></b>	
December 21, 2022	Last day for candidates not involved in the run-off to raise money to pay off their campaign debts.	§17-5-7
January 18, 2022	Last day for candidates involved in the run-off election to raise money to pay off their campaign debts. (120 days after election.)	§17-5-7

**The City of Mountain Brook, Alabama  
Mayor and City Council  
(2020 - 2022)**

Stewart H. Welch III, Mayor (2024)  
 Virginia C. Smith, President - Place 4 (2024)  
 William S. (Billy) Pritchard III, President Pro Tempore - Place 3 (2022)  
 Gerald A. Garner - Place 2 (2024)  
 Lloyd C. Shelton - Place 5 (2022)  
 Alice B. Womack - Place 1 (2022)

Carl Johnson  
City Attorney

Sam S. Gaston  
City Manager

Parks and Recreation  
Board

Library Board

James Loggins  
Police Chief

Chris Mullins  
Fire Chief

Ronnie Vaughn  
Public Works  
Superintendent

Dana Hazen  
Director of Planning,  
Building  
& Sustainability

Steven Boone  
Ass't City Manager/  
Finance Director

Shanda Williams  
Park Superintendent

Lindsay Gardner  
Library Director

Administration/  
Public Safety  
Dispatch

Administration

Administration

Glen Merchant  
Senior Plans  
Examiner

Heather Richards  
Municipal Clerk

Parks

Patrol

Training  
and Safety

Heavy  
Construction

Building Inspections

Revenue

Athletic Complex

Detectives

Prevention

Traffic/Road  
Right-of-Way

Zoning and Code  
Enforcement

Municipal Court

Route Crews

School Resource  
Officers

Emergency Medical  
Transport

Garage/Shop

Accounting,  
Accounts Payable,  
and Payroll

Construction

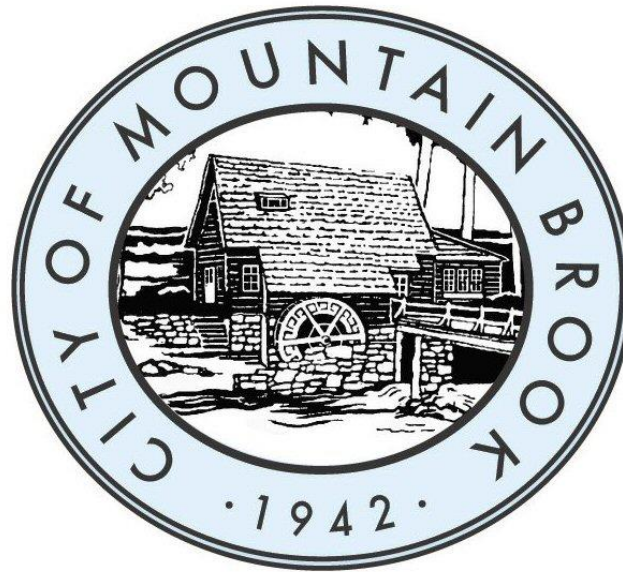
Suppression/EMS

Urban Forestry

Network  
Administrator I (2)

# **The City of Mountain Brook**

## **FY-2022**



**Sam S. Gaston**  
**City Manager**



# **Mountain Brook City Government Mission Statement**

*A professional organization committed to team work and excellence which promotes full participation in enhancing the quality of life for its residents.*



# Values

*Integrity*

*Safety*

*Education*

*Community*

*Stewardship*

*Beauty*

# The City of Mountain Brook

- Incorporated in 1942
- No salary for Mayor and City Council
- First city in Alabama to have a City Manager
- Heavily residential – only 2% office/commercial
- 22,461 population
- #2 best suburb in nation per Business Insider magazine
- Ranked 7<sup>th</sup> most successful city in the USA
- #17 in nation for promoting small business
- Rated best city in Alabama to raise children
- #8 in nation for % of adults that have a college degree 85.1%
- #19 in nation for mean family income
- 1<sup>st</sup>-4<sup>th</sup> lowest crime rate in Alabama

# The City of Mountain Brook

- Class 2 ISO rating (Fire Insurance Rating)
- Lowest debt ratio of all major cities in Alabama (\$11 million)
- Top 20 school system in the nation
- Named State Arbor Day Community 2021 by the Alabama Urban Forestry Association
- 185 miles of streets
- 13 square miles in area
- Seven parks and two athletic complexes
- 45 miles of sidewalks and walking trails
- \$44 million general fund annual budget
- 244 full-time and 16 part-time employees
- Contracts garbage, trash, recycling and leaf services

# The Mayor and City Council (2020-2022)

- Stewart H. Welch, III, Mayor
- Virginia Smith, Council President
- Billy Pritchard, Council President Pro Tem
- Alice Womack
- Gerald Garner
- Lloyd Shelton





# City Boards

- Board of Zoning Adjustments
- Planning Commission
- Parks and Recreation Board
- The O'Neal Library Board
- Board of Education
- Board of Landscape Design
- Finance Committee
- Village Design Review Committee

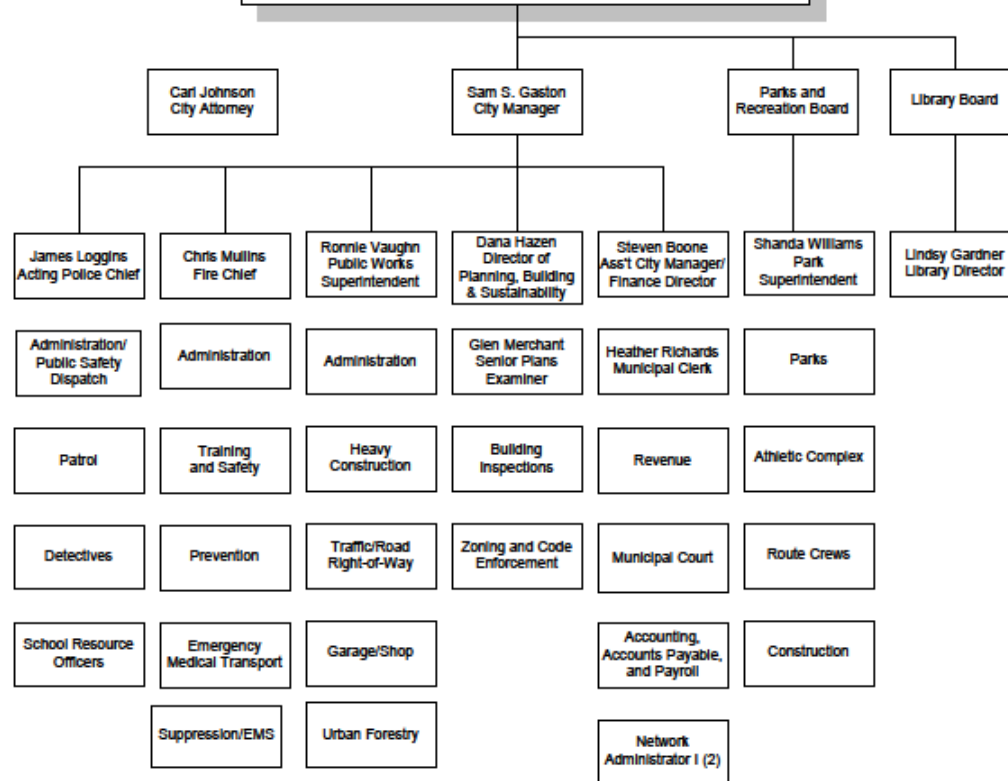
# Fiscal Year 2022 Budget

- \$44 Million Total General Fund Revenues
    - \$18.1 Million Property Tax
    - \$12.2 Million Sales Tax (3%)
    - \$2.8 Million – Business Licenses
    - \$1.9 Million – Utility/Franchise Tax
    - \$1.4 Million – Automobile Tax
    - \$1.1 Million in Construction Permits
- 
- Eliminated Occupational Tax in 2006
  - Eliminated Garbage Fee in 2008



**The City of Mountain Brook, Alabama  
Mayor and City Council  
(2020 - 2022)**

Stewart H. Welch III, Mayor (2024)  
 Virginia C. Smith, President - Place 4 (2024)  
 William S. (Billy) Pritchard III, President Pro Tempore - Place 3 (2022)  
 Gerald A. Garner - Place 2 (2024)  
 Lloyd C. Shelton - Place 5 (2022)  
 Alice B. Womack - Place 1 (2022)



# Seven (7) City Departments

- 244 full-time and 16 part-time employees
- Police – 70 full-time
- Fire – 64 full-time
- Public Works – 43 full-time
- Library – 25 full-time, 14 part-time
- City Hall – 24 full-time, (City Manager's office, Finance and Planning/Inspections)
- Parks/Recreation – 18 full-time, 2 part-time



# Finance Department



- The Finance Department includes:
  - Tax, license, and permit department – 4 employees
  - Municipal court – 3 full time employees
  - Accounting, payables, and payroll – 4 employees
  - Network administration – 2 employees

The Finance Department provides support services for the City's primary governmental functions (payroll and information technology support) and is responsible for the administration and enforcement of the City's tax, license, and permit regulations, court administration, as well as financial reporting and analysis, budget development and administration, investment management, payroll tax compliance and reporting, and benefits administration.

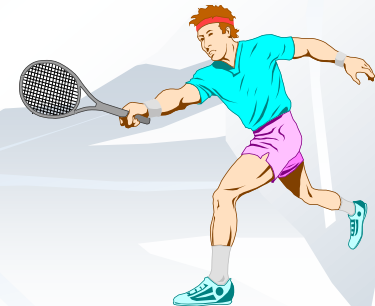
# Fire Department

- Three Fire Stations
- Class 2 Fire Rating
- Emergency Medical Ambulance service
- Six emergency sirens city-wide
- Proactive fire safety program: building plans review, fire code enforcement, pre-incident plans
- Fire training tower
- Live fire training facility



# Parks and Recreation

- 18 Employees
- Maintains
  - Seven (7) parks
  - Playing fields at four (4) elementary schools and the junior high school
  - Over 100 right-of-way parcels
  - Athletic Complex at High School
- Coordinates recreation activities with MBAA, MBSC, MBLAX and Board of Education



# Planning, Building, & Sustainability

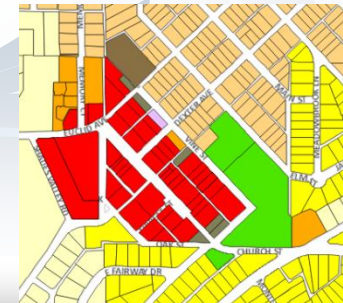


- 8 Employees
- Inspections
  - Inspectors and Building Official ensure building safety through the administration of building code.



- Planning
  - City Planner promotes policies that ensure a sustainable community through the administration of the land use plan, the zoning code and the sign ordinance.

- GIS (Geographic Information Systems)
  - GIS Manager creates a location-based inventory of the city's data and resources, which fosters effective decision-making from civic leaders.





# Police Department

- 65 sworn officers, 70 total personnel
- 3 motorcycles
- 6 School Resource Officers (SRO)
- Village Beat Officer
- Animal Control services
- Parking Control Officer
- Contracts Public Safety Dispatch Services to Shelby County E-911
- Implementing take home car policy for police officers



# Public Works

- 43 Employees
- Maintains
  - Our four (4) commercial villages
  - 185 miles of streets and right-of-ways
  - Drainage facilities and systems
  - Traffic control signals and signs
  - All City vehicles and equipment
  - Sewer treatment plant at Athletic Complex
- Operates composting program and leaf pickup.
- Liaison to Waste Management for City's garbage, trash and recycling program.



# O'Neal Library

- 25 full-time and 14 part-time Employees
- Governed by the O'Neal Library Board
- Originally constructed in 1965/ New Building in 2001
- Square footage: 40,500
- Volumes: 128,753
- Circulation: 448,666
- 25 Public Access Computers
- 5<sup>th</sup> Most Used Library in Jefferson County
- Not limited to books anymore, the library offers movies, music, programs, special events, e-books, e-readers, and more for all ages. Smart Directions, Hoopla, and Eyeplay are a few examples.

# Major Projects for FY-2022

- Design for a new Fire Station #2
- Municipal Elections in August, 2022



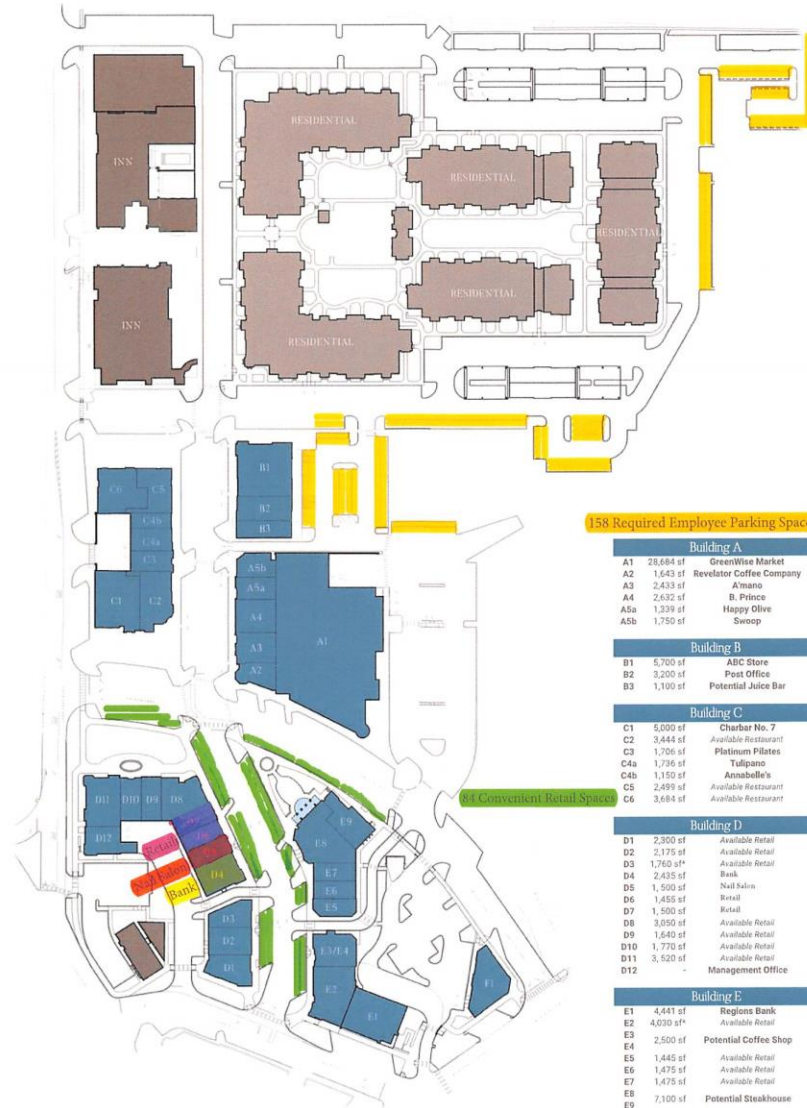
- Intersection improvements at Euclid Avenue/Montevallo Road in partnership with the City of Birmingham



# Major Projects for FY-2022 (cont'd)

- Contracting E911 Dispatch Services to Shelby County E911
- Hire a new Police Chief
- Improvements to the detention pond and drainage at the Junior High School
- Large drainage projects on Northcote Drive and Canterbury/Surrey Roads area
- Updating our Master Land Use Plan (Adopted in 2007)

# Lane Parke Phase 2



158 Required Employee Parking Spaces

Building A	
A1	28,684 sf GreenWise Market
A2	1,643 sf Revelator Coffee Company
A3	2,433 sf A'mano
A4	2,832 sf B. Prince
A5a	1,339 sf Happy Olive
A5b	1,750 sf Swoop
Building B	
B1	5,700 sf ABC Store
B2	3,200 sf Post Office
B3	1,100 sf Potential Juice Bar
Building C	
C1	5,000 sf Charbar No. 7
C2	3,444 sf Available Restaurant
C3	1,706 sf Platinum Pilates
C4a	1,736 sf Tulipano
C4b	1,150 sf Annabelle's
C5	2,499 sf Available Restaurant
C6	3,684 sf Available Restaurant
Building D	
D1	2,300 sf Available Retail
D2	2,175 sf Available Retail
D3	1,750 sf* Available Retail
D4	2,435 sf Bank
D5	1,500 sf Nail Salon
D6	1,455 sf Bread
D7	1,500 sf Retail
D8	3,050 sf Available Retail
D9	1,640 sf Available Retail
D10	1,770 sf Available Retail
D11	3,520 sf Available Retail
D12	- Management Office
Building E	
E1	4,411 sf Regions Bank
E2	4,030 sf* Available Retail
E3	2,500 sf Potential Coffee Shop
E4	-
E5	1,445 sf Available Retail
E6	1,475 sf Available Retail
E7	1,475 sf Available Retail
E8	-
E9	7,100 sf Potential Steakhouse
Building F	
F1	3,455 sf Available Retail

84 Convenient Retail Spaces

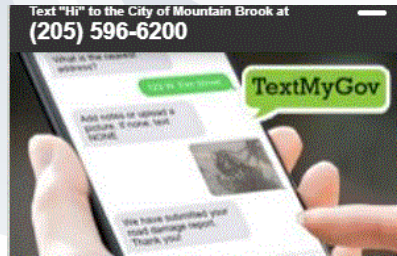


\* - Assumes drive-thru is constructed as shown. E2, E3, E4 do not include shared corridor.

# Major Projects for FY-2022 (cont'd)

- Annual Paper Shredding and Electronics Recycling Day

- Implemented “Text My Gov” system



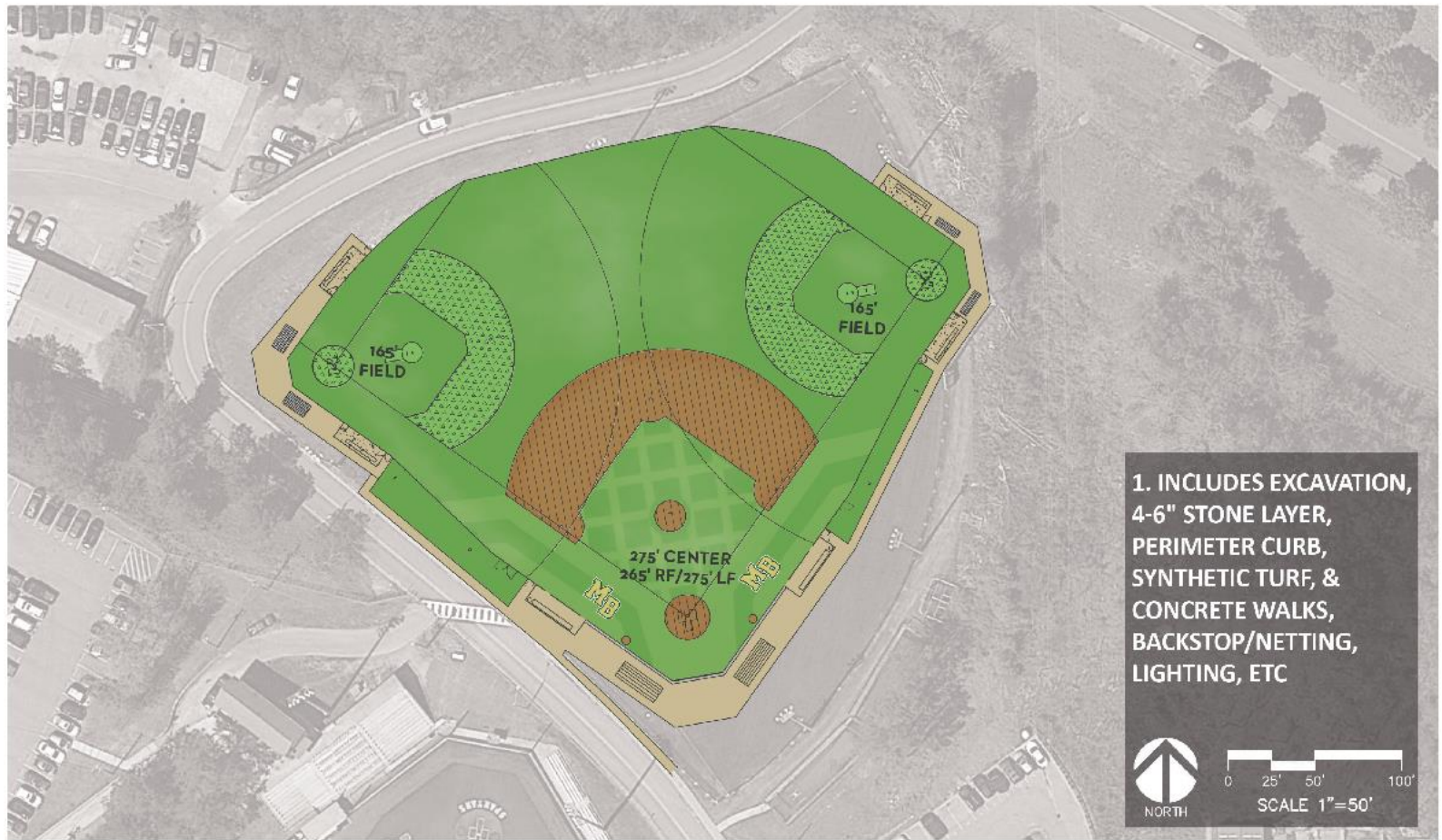
- Proceeding with plans, along with Homewood, Jefferson County and ALDOT, for a pedestrian crossing on the Hollywood Blvd bridge over Hwy 280
- Four laning of Hwy 280 from Pumphouse Road bridge to Lakeshore Blvd

# Major Projects for FY-2022 (cont'd)

- Athletic Improvements
  - New restrooms, concession stand, playground equipment, security cameras and walkways at the Athletic Complex
  - Field #1 improvements at the Athletic Complex
  - Cherokee Bend Elementary Field improvements
  - Improvements/renovations to Crestline Tot Lot
  - Additional parking for Jemison Park along Mountain Brook Parkway
  - Canterbury Park – new signage, add a water fountain and irrigation

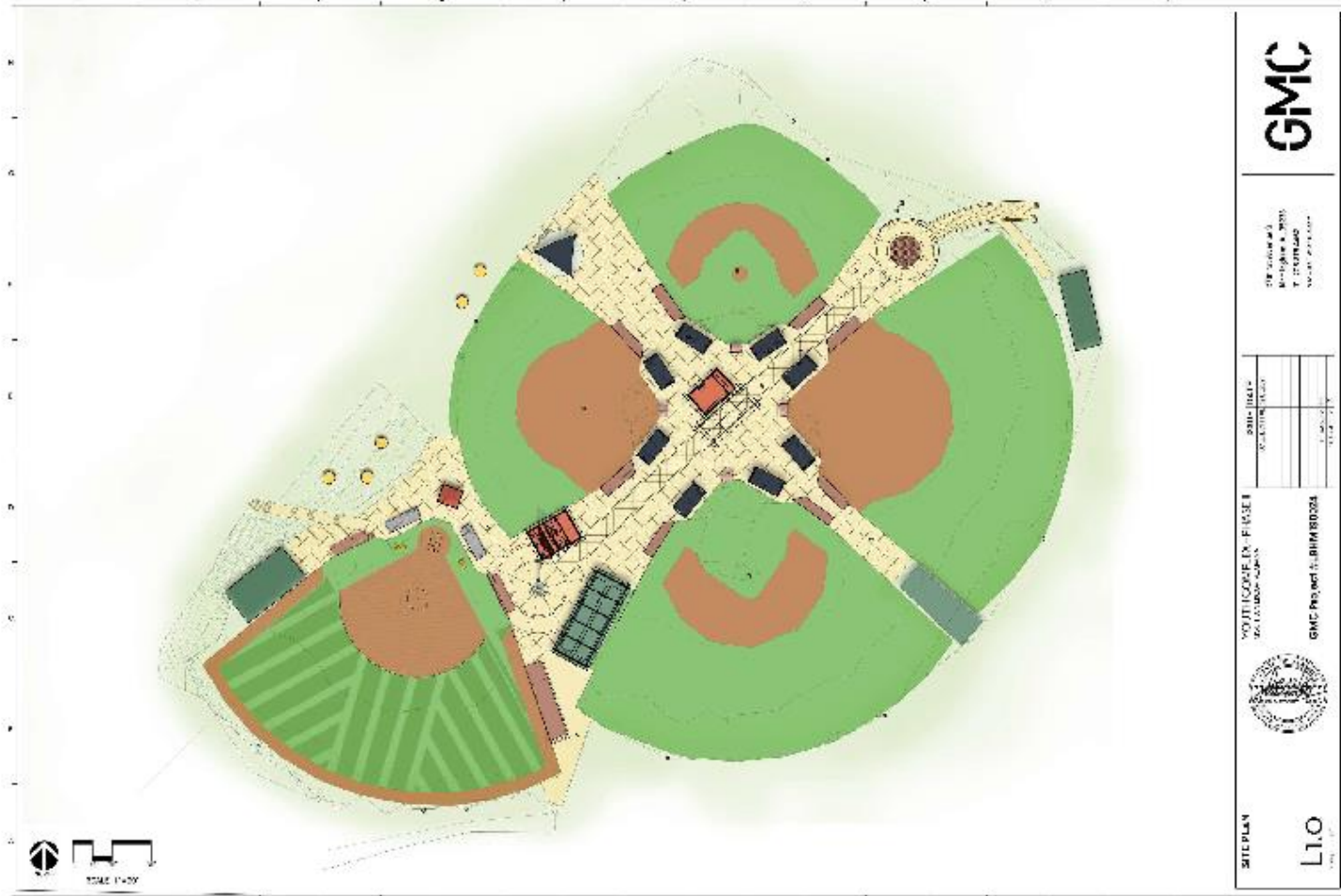


# Athletic Complex Improvements



MOUNTAIN BROOK HIGH SCHOOL FIELD 1

# Youth Complex – Phase 2

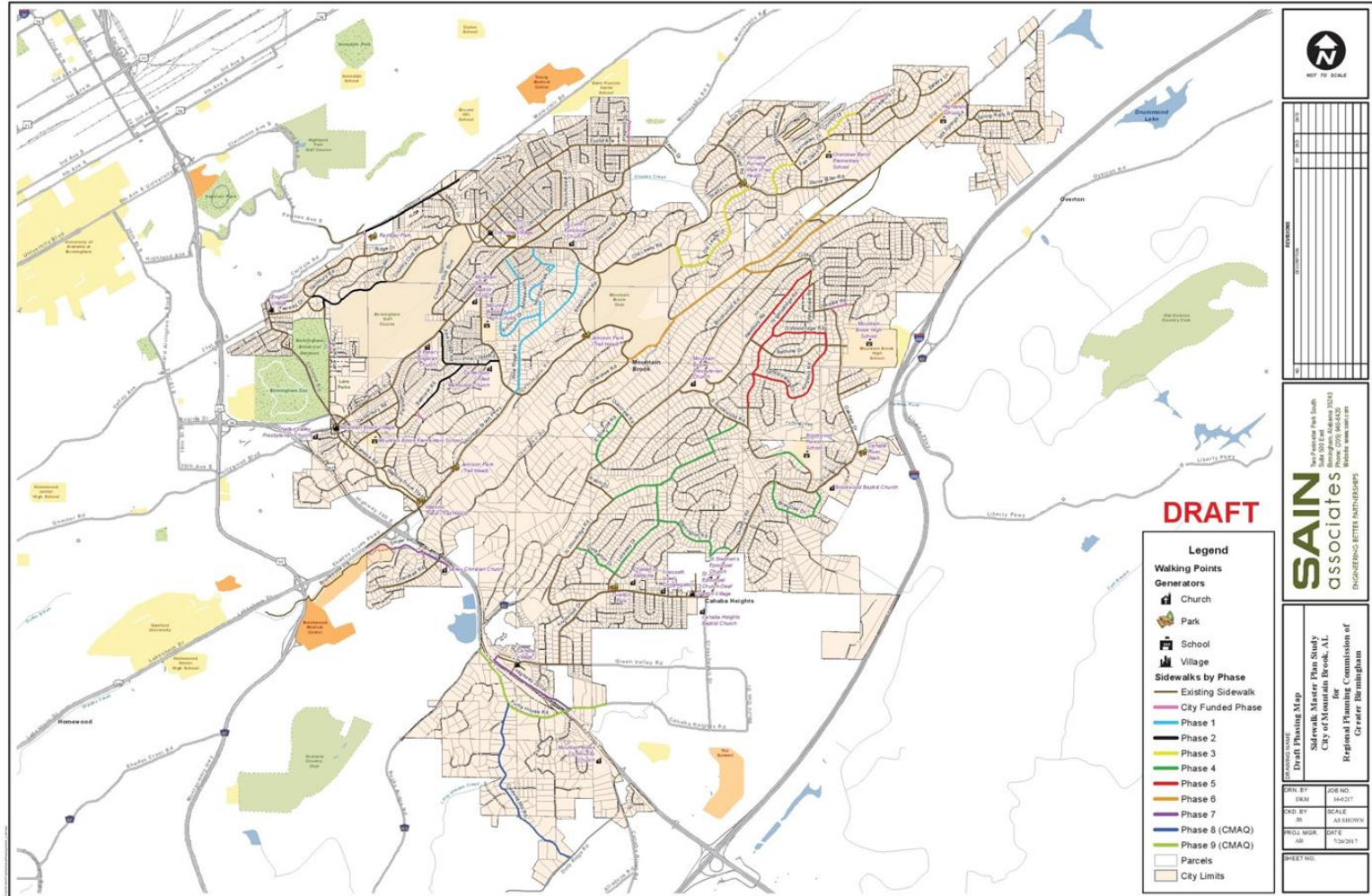




# Major Projects for FY-2022 (cont'd)

- Sidewalk Projects
  - Hagood Street from Euclid Avenue to city limits and into Birmingham to Montclair Road (Fall 2021)
  - Complete final block of sidewalks on North Woodridge Road to link with sidewalks on Bethune Drive (Fall 2021)
  - Extend sidewalks along Old Leeds Road from Shady Lane to Old Leeds Lane (Summer 2022)
  - Pine Ridge Road from Old Leeds Road to Overbrook Road (Engineering and Design)

# Master Sidewalk Plan



# Major Projects for FY-2022

- **Bridge Projects:**

  - Caldwell Mill Road bridge replacement - 2022

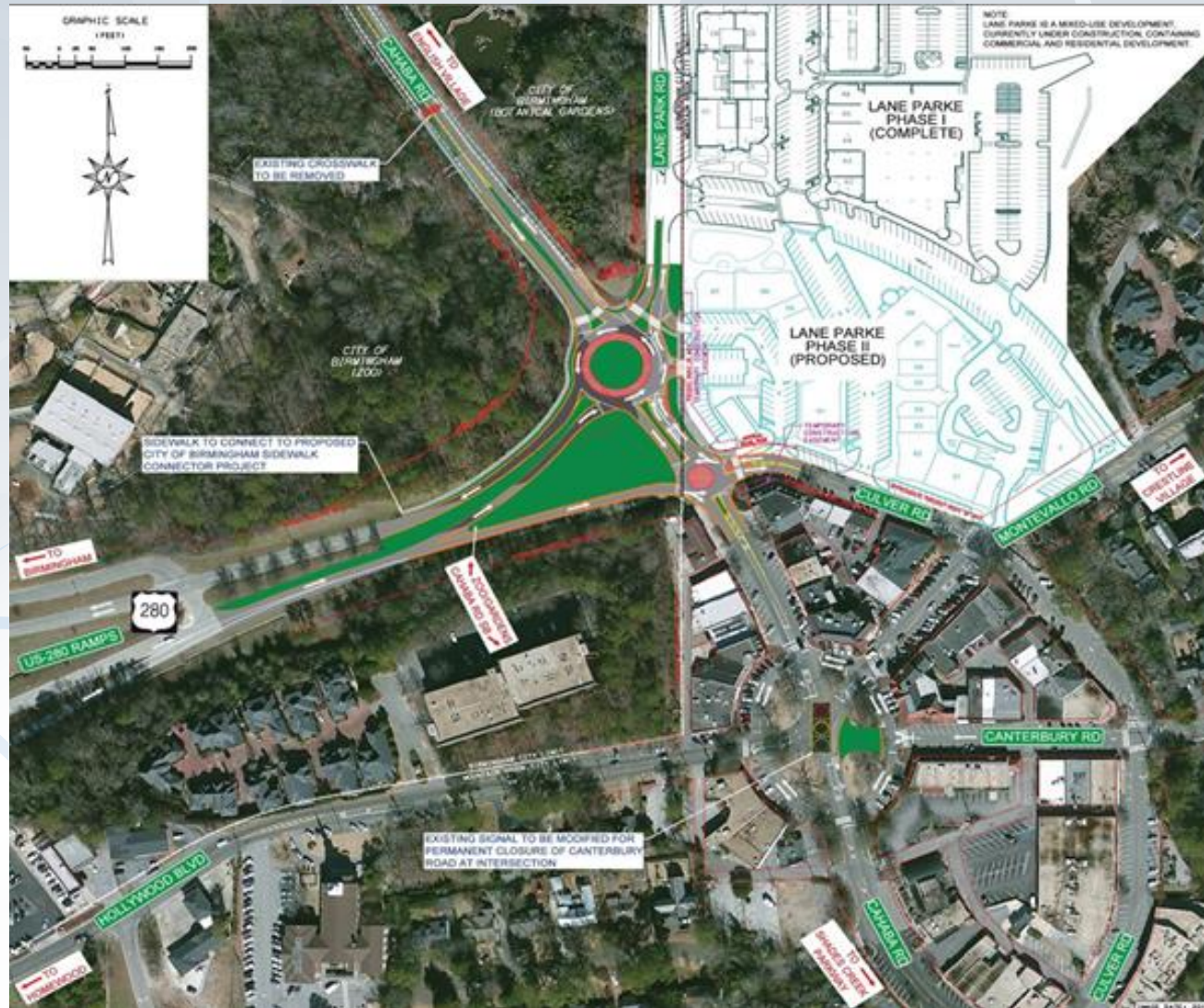
  - Old Brook Trail bridge replacement - 2022

  - Canterbury Road bridge rehabilitation – 2022

- **Mountain Brook Village Roundabouts-  
Engineering and environmental design (late 2022-  
2023)**

- **Redevelopment of the Brookwood Village Mall  
property along with the City of Homewood**

# Mountain Brook Village Roundabouts



# Citizen Engagement

- Four (4) Facebook Pages – Mayor, Police, Fire and Animal Control
- Revamped Website with Action Center and GIS Maps
- Text Alerts
- Quarterly City Newsletter
- Weekly Crime Update email from the Police Department
- Citizen's Survey on municipal services every three (3) years
- City Hall and Police Twitter accounts
- Police Department Mobile Smartphone App
- Beat Officer for commercial villages
- Public Hearings:
  - Zoning changes
  - Zoning ordinance amendments
  - Street light requests
  - Stop signs and other traffic control measures
  - Bridge replacement/rehab and other Public Works projects
  - Sidewalk projects
  - Budget adoption
  - Building Codes adoption



# What Keeps Me UP at Night

- The effects of COVID-19 on our community, residents and city employees
- Two Jefferson County sewer projects in Mountain Brook and Crestline Villages in 2023
- Garbage/Trash/Recycling contract in 2022

# Questions?

How to contact me?

(205) 802-3800

[gastons@mtnbrook.org](mailto:gastons@mtnbrook.org)

## City of Mountain Brook Newly Elected Officials Orientation

1. Meeting with City Manager
  - A. Our form of government and how it operates
  - B. Budgeting process
  - C. Current and future issues
  - D. Schedule of meetings
  - E. City Boards and Committees
  - F. Management staff of City of Mountain Brook
  - G. Questions?
  
2. Reading/Orientation Materials
  - A. City Code – **Website:** Depts > Planning&Zoning > Zoning Code
  - B. City Budget –**Website:** Depts > Finance > Budget
  - C. Land Use Plan – **Website:** Depts > Planning & Zoning > Helpful links  
Village Master Plan
  - D. Organization Chart of City of Mountain Brook – **Powerpoint:** City 2020
  - E. City Manager’s employment agreement – **Docuware:** Ordinance 2053
  - F. Alabama League of Municipalities Selected Readings for the Municipal Official
  - G. Alabama League of Municipalities Handbook for Mayors and Council members
  - H. Employee Handbook – Intranet: <http://intranet>
  - I. City’s Adopted Management Policies– Intranet: <http://intranet>
  - J. List of City Boards/Committees and their membership – **Website:** Gov’t>  
Boards & Committees – roster for each
  - K. ICMA Handbook for Council members in Council-Manager cities (**Attached**)
  - L. Resident’s Survey Results – **Website:** Announcements > RSR – 2/10/20
  - M. City of Mountain Brook PowerPoint – **Powerpoints:** City 2020
  
3. Send newly elected officials to Alabama League of Municipalities training session (October). **REGISTER**
  
4. Have them complete required online ethics training from the Alabama Ethics Commission
  
5. Send newly elected officials full agenda packets for Council meetings prior to taking office. **WEBSITE:** Gov’t > Agenda & Minutes
  
6. Invite them to attend Council meetings and meetings of the other City boards/committees prior to taking office.
  
7. Invite them to attend our budget work sessions to gain a better understanding of City finances.
  
8. Remind them there are no dumb questions and don’t feel shy about asking for additional information.
  
9. Schedule them for tours of all City departments and facilities
  - A. City Hall (City Manager office, Finance, Planning/Inspections)
  - B. Police Department
  - C. Fire Department
  - D. Library
  - E. Parks and Recreation Department
  - F. Public Works Department
  - G. Chamber of Commerce

10. Do they want city business cards?

## DUTIES OF THE MAYOR AND COUNCIL

PREPARED BY THE ALABAMA LEAGUE OF MUNICIPALITIES REPRINTED FROM THE SELECTED READINGS FOR THE MUNICIPAL OFFICIAL (2008)

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One of the most misunderstood aspects of municipal government is the separation of powers between the mayor and the council. Like government on the state and federal levels, municipal government is divided into three separate but equal branches: executive, legislative and judicial. Each of these branches has distinct duties and powers and restrictions on how far it can intrude into the affairs of the other branches.

At the municipal level, the mayor serves as the head of the executive branch. As such, the mayor is responsible for overseeing the day-to-day operations of the municipality. He or she oversees municipal employees, makes sure that bills are paid on time, executes municipal contracts and, in general, performs many of the same functions as a CEO of a private corporation. Section 11-43-81, Code of Alabama 1975.

In municipalities of less than 12,000 inhabitants, the mayor also presides over council meetings and serves as a member of the council. In these cities and towns, the mayor may vote on any issue before the council, introduce measures and participate in debates to the same extent as members of the council. Section 11-43-42, Code of Alabama 1975.

In cities with populations of more than 12,000, the mayor is not a member of the council. However, he or she has a veto over any permanent action taken by the council. The council can override the veto by a two-thirds vote. Section 11-43-42, Code of Alabama 1975.

The council is the legislative branch. The council has authority over the finances and property of the municipality. The council establishes policies, passes ordinances, sets tax levels, determines what sorts of services the municipality will offer and has authority over all other legislative aspects of municipal government. Section 11-43-56, Code of Alabama 1975.

Citizens and councilmembers must understand that individual councilmembers, acting alone, have no greater power or authority than any other citizen of the municipality. The council can only act as a body at a legally convened meeting. No official action may be taken by any individual council member. All official action must be taken by the council acting as the governing body. The mayor is the chief executive officer of the city and is charged with the duty of supervision of the affairs of the city under policies fixed by the council. AGO to Hon. A.J. Cooper, August 15, 1973.

For instance, the Attorney General has ruled that individual councilmembers cannot direct the activities of a municipal fire department, even pursuant to a properly enacted ordinance. AGO 1988-262. Other similar rulings include:

Individual city councilmembers may not supervise and control municipal departments. The city council must approve expenditures of municipal funds. AGO 1991-147.

A town council may not delegate its authority to appoint recreational board members to individual councilmembers. AGO 1991-402.

It is clear, then, that the primary factor in the success of a municipal government lies in the working relationship between the mayor and the city council. Elected city officials must recognize that they have

dedicated themselves for the next four years to accomplishing a common goal – providing the city or town with the best municipal government possible. To achieve this goal, the mayor and the council must maintain a harmonious working relationship.

At times the mayor and the council will disagree over the best solution to a problem. Disagreement is not only inevitable, it can be healthy. Negotiating opposing viewpoints can often lead to unexpected solutions. City officials must learn that when an opposing view is taken by someone else in government, it is merely a different opinion on the best way to represent the citizens of the municipality.

The success of municipal government also depends upon the willingness of each individual councilmember to cooperate with other councilmembers in granting time, knowledge and experience toward representing the citizens of the municipality. Under the mayor-council form of government, the council is granted legislative powers to determine the policies that will be followed in the administration of the municipal government. In exercising these powers, the council determines the extent of the governmental and corporate functions of the municipal government.

Equally vital is the willingness of the mayor to properly administer the ordinances passed by the council. The mayor is charged with the general supervision and control of municipal departments, programs, and facilities. The advice, recommendations and viewpoints of the mayor generally reflect the thoughts of the voters who elected him or her and are worthy of careful consideration by the council.

The laws of Alabama necessitate a close working relationship between the council and the mayor. Without that spirit of cooperation, a municipal government will not function properly. Open communications between the mayor and the council should be maintained at all times. Before acting on any proposal, the council should carefully consider the advice, views and recommendations of the mayor. Similarly, the mayor should also listen to council discussions in order to understand the reasoning behind council actions and the intent of the council as it passes ordinances and resolutions.

### **Powers of Appointment**

Section 11-43-81, Code of Alabama 1975, states that the mayor has the power to appoint all officers whose appointment is not otherwise provided for by law. The Attorney General of Alabama has ruled that if the council has exercised its powers to appoint officers of the city or town by passing an ordinance, then the appointment would be "otherwise provided for by law," thus removing the mayor's power to make appointments. AGO to Hon. John W. Maples, April 17, 1957. See also, AGO 1995-315 and 1997-166.

Further, a council may adopt an ordinance giving the council exclusive authority to appoint a chief of police, all police officers and a superintendent of utilities. However, as CEO of the municipality, the mayor's power to oversee the daily activities of city officials cannot be removed by the council. AGO to Hon. A. J. Cooper, Jr., May 6, 1977. This same opinion provides that the council cannot by motion, resolution or ordinance require the mayor to give written work orders whenever he or she instructs a city employee to perform a task nor may the council require employees and department heads to answer directly to the council for their actions and to receive their instructions at least in part directly from the council.

Where the Code of Alabama specifies that the council has exclusive appointing power, such as over the

municipal clerk, the council cannot delegate its appointing power. If an appointment is left to the discretion of the council, then the council may delegate its authority by a properly-drafted ordinance. If the Code is silent as to who makes an appointment, then the mayor has the authority unless the council has provided differently in a properly-drafted ordinance. In cities of less than 12,000 in population, the mayor is a member of the council and may vote on appointments made by the council. In all municipalities, the council may provide for a tax assessor, tax collector, chief of police and a chief of the fire department. The council also has the duty to specifically designate the duties of each office. Section 11-43-5, Code of Alabama 1975. In municipalities of less than 6,000 in population, the council must elect a clerk and may determine by ordinance the other officers of the city or town. Section 11-43-4, Code of Alabama 1975.

The council has the duty to establish the salary of all officers and employees whose compensation is not fixed by law. Sections 11-43-7 and 11-43-8, Code of Alabama 1975. The council must fix by ordinance the terms of service of the officers of the municipality whose terms are not otherwise prescribed by law. Section 11-43-6, Code of Alabama 1975. And the council must prescribe, by ordinance, the powers to be exercised and the duties to be performed by officers appointed or elected, unless otherwise provided by law. Section 11-43-47, Code of Alabama 1975. The council is authorized to establish a police force under the general supervision of a police chief. Section 11-43-55, Code of Alabama 1975. The council is authorized to appoint the city attorney. AGO 1990-173. Additionally, members of municipal boards must be appointed by the mayor or council, pursuant to the statutory authority under which the board was created. See, AGO 1998-077.

### **Powers of Dismissal**

Section 11-43-160, Code of Alabama 1975, states that any person appointed to an office in any city or town may, for cause, after a hearing, be removed by the officer making the appointment. Section 11-43-81 states that the mayor may remove, for good cause, any non-elected officer appointed by him or her and permanently fill the vacancy. However, in *State v. Thompson*, 100 So. 756 (1924), the Alabama Supreme Court ruled that where the mayor has been given the power to make appointments solely on his or her own discretion and without the approval of the council, the mayor must grant a hearing to the appointee before the dismissal. Of course, the appointee may waive this right to a hearing.

The mayor may remove any officer for good cause, except those elected by the people, and permanently fill the vacancy if the officer was elected by the council or appointed with its consent. In either of these cases, the mayor must report the dismissal to the council and state the reasons for the action to the council at its next regular meeting. If the council sustains the mayor's act by a majority vote of those elected to the council, the vacancy must be filled as provided in Title 11 of the Code of Alabama. Again, Section 11-43-81 of the Code states that the appointee must be granted a hearing, which can be waived by the employee, before the dismissal becomes permanent.

In the League's opinion, the mayor can cast a vote on the issue of upholding his or her act of removal for the purpose of documenting the mayor's position on the issue. However, the mayor's vote cannot be counted in determining whether a sufficient number of those elected to the council approved the officer's removal. See, *Hammonds v. Town of Priceville*, 886 So.2d 67 (Ala. 2003). The mayor may not

permanently remove the police chief or any other officials who were not appointed by him or her but the mayor may temporarily remove such officials pending a hearing on the question by the council. The mayor may fill the vacancy temporarily by the appointment of an acting successor who is entitled to pay for services rendered. AGO to Hon. Robert S. Glasgow, July 19, 1956.

The mayor of a city of 12,000 or more in population does not sit as a member of the council and, therefore, has no vote on questions of appointment or dismissal of officers or employees who come before the council. The mayor of a city of 12,000 or more in population does not have the power of veto over appointments made by the council.

The fact that the mayor, who voted and participated in a personnel hearing before the council concerning an officer's dismissal, may have had prior and independent knowledge of the dispute would not, standing alone, be sufficient to support a finding that the officer was deprived of an opportunity for an impartial hearing. However, the Alabama Supreme Court has held if before the hearing, a mayor and a councilmember had decided to uphold the discharge of the officer before evidence was presented, participation of the mayor and councilmember in the council hearing denied the officer due process. See, *Chandler v. Lanett*, 424 So.2d 1307 (Ala. 1982); see also, *Guinn v. Eufaula*, 437 So.2d 516 (Ala. 1983); *Stallworth v. Evergreen*, 680 So.2d 229 (Ala. 1996).

## **Municipal Finances**

Section 11-43-84, Code of Alabama 1975, requires the mayor, as chief executive officer, to present a written statement to the council at least once every six months showing the financial condition of the municipality and the steps the mayor proposes to take for the protection of the city or town. This section also states that the mayor shall require any officer of the city or town to make a report at such times as the mayor or the council directs. This authority is intended to facilitate supervision of the various municipal departments and officials and to assist the mayor in making reports to the council.

Section 11-43-85, Code of Alabama 1975, requires the mayor to appoint an expert accountant to make a detailed examination of all books and accounts of the city and to make a full report in writing, under oath, to be submitted to the council at its first meeting after completion of the report. This report must be placed in the minutes of the council. Section 11-43-85 also authorizes the mayor to request the Examiners of Public Accounts to audit the municipality. AGO 1992-322.

The council does not have authority to appoint its own accountant in lieu of the mayor's appointment. Further, the mayor is authorized to fix the accountant's fee without the approval of the council and the council is legally obligated to pay a reasonable amount for these services. If the council is not satisfied with the audit provided by the mayor's accountant, the council may order an additional audit to be made by an auditor of its choice.

The council is required to appropriate the sums necessary for the expenditures of city departments, and for interest on indebtedness, not exceeding in the aggregate 10 percent of its estimated receipts. In addition, the council cannot appropriate in the aggregate an amount in excess of its annual legally-authorized revenue. Section 11-43-57, Code of Alabama 1975.

While a city is not required to adopt a budget, most municipalities do so to ensure that citizens obtain maximum service for each tax dollar. As chief executive officer, the mayor is in the best position to



determine the requirements of the various municipal departments. While the mayor does not draft the final budget, he or she compiles estimates of revenues and expenses and presents those figures to the council along with recommendations for appropriations and for revenue-raising procedures, if necessary. The municipal budget is not considered permanent and, therefore, is not subject to the mayor's veto. AGO 1991-180.

The mayor plays an important role in the disbursement of municipal funds. Warrants must be drawn by the clerk, approved by the mayor or such other person as the council designates and presented to the treasurer for payment. The Alabama Supreme Court held in *Edwards v. 1st National Bank of Brewton*, 377 So.2d 966 (1979), the council may, by ordinance, remove the mayor's authority to sign checks. See, AGO 1990-284; see also, AGO 2001-260.

All expenditures of municipal funds must be specifically approved by the mayor or by some other person designated by the council. Section 11-43-120, Code of Alabama 1975. However, the council may make a purchase over the objection of the mayor. AGO to Hon. Norman Plunkett, June 22, 1977.

Further, Section 11-43-120 provides that no warrant shall be drawn except by the authority of law or ordinance, and the treasurer shall allow no expenditure unless it is approved by ordinance or by the mayor. If the mayor questions the legality of an expenditure, the clerk and treasurer and, if necessary, the city attorney, should be consulted about the matter. The mayor may be held responsible for unauthorized expenditures made on the basis of his or her approval. See, *Altmayer v. Daphne*, 613 So.2d 366 (Ala. 1993). Additionally, the council should stress that only those with authority to authorize expenditures should do so, because in *Brannan and Guy, P.C. v. Montgomery*, 828 So.2d 914 (2002), the Alabama Supreme Court held where the authority to set the compensation rates of contract attorneys rests solely with the mayor, a discussion of rates between the city attorney and the contract attorney at the request of the mayor does not create a unilateral contract that binds the city.

While it is unnecessary for the council to validate each disbursement individually, Section 11-43-120 requires that all claims, requisitions and demands against a municipality for goods purchased or debts incurred be presented to the council for approval, unless already provided by ordinance or resolution.

### **Municipal Contracts**

Unless otherwise directed by state law or ordinance, the mayor is authorized to enter into and execute all municipal contracts in the name of the city or town. However, the mayor cannot change the price fixed by the council without authority from the council to do so. *Albany v. Spragins*, 93 So. 803 (Ala. 1922). All obligations for the payment of money by the municipality, except for bonds and interest coupons, shall be attested by the clerk. Section 11-47-5, Code of Alabama 1975.

The mayor is required to see that all contracts with the municipality are faithfully performed or kept. The mayor is required to execute all deeds and contracts and bonds required in judicial proceedings for and on behalf of the city or town. No sureties shall be required on the bond. Section 11-43-83, Code of Alabama 1975.

Section 11-47-20 of the Code authorizes a municipality, by ordinance entered on the minutes of the council, to dispose of any real property not needed for public or municipal purposes. The council directs the mayor to make title thereto. The council may file a writ of mandamus against the mayor if the mayor

refuses to execute a deed as required. AGO 1995-113. A conveyance made by the mayor in accordance with this ordinance invests the grantee with the title of the municipality. Section 11-47-21 requires a municipality to follow the same procedure when it wishes to lease any of its real property. No similar requirement is made for personal property. See, Section 11-43-56, Code of Alabama 1975. For further discussion on this topic, please see the article entitled "Sale of Lease of Unneeded Municipal Property" located in the Selected Readings for the Municipal Official.

If a public official, public employee, member of the household of the public official or employee, or business with which that person is associated, enters into a contract to provide goods or services and payment, in whole or part, for the contract will come out of state, county or municipal funds, must be filed within the Ethics Commission within ten days after the contract has been entered into, regardless of the amount of the contract or whether or not the contract has obtained through competitive bid. AGO 2001-029.

### **Legislative and Judicial Powers of the Mayor**

Section 11-45-1, Code of Alabama 1975, gives municipalities the power to adopt ordinances and resolutions to carry into effect the powers and duties conferred on it by statute and to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort and convenience of the citizens of the municipality. The council, as the legislative body of the municipality, is responsible for enacting these ordinances.

In municipalities of less than 12,000 in population, the mayor sits with, presides over and is considered a member of the municipal council. This provision entitles the mayor to vote for or against the adoption of ordinances that the council considers. It is unnecessary that an ordinance be approved by the mayor or authenticated by his or her signature. Section 11-43-42, Code of Alabama 1975.

In cities with populations of 12,000 or more, the mayor does not sit as a member of the council. Therefore, the clerk must transmit all ordinances and resolutions intended to be of a permanent nature to the mayor within 48 hours after passage by the council. If the mayor disapproves of an ordinance or resolution transmitted by the clerk, he or she must, within 10 days of its passage by the council, return it to the clerk with the written objections. The clerk is to report these objections to the council at its next regular meeting. If the mayor fails to return the ordinance within 10 days, the clerk shall publish the ordinance as though the mayor had signed his or her approval. See, Sections 11-45-4 and 11-45-5, Code of Alabama 1975. The mayor has no authority to veto an ordinance which merely disposes of an administrative matter. AGO to Hon. Carl H. Kilgore, July 8, 1975. Therefore, nonpermanent ordinances are not subject to the mayor's veto. AGO 1991-072.

The council has the power to pass an ordinance over the mayor's veto by two-thirds vote of the members elected to the council. The vote must be recorded on the minutes. Section 11-45-5, Code of Alabama 1975.

Under general law, in municipalities over 12,000 in population, Section 11-45-5 gives the mayor power to approve or veto in whole or in part all ordinances or resolutions fixing the salaries of officers and employees. At its next regular meeting, the council votes on whether it will override the mayor's veto. If it fails to override the veto, then it votes upon the approval of the ordinances as approved by the mayor.

Section 12-14-15, Code of Alabama 1975, states that the mayor, under authority as chief executive officer, has the power to remit fines and costs imposed by the municipal judge or the court to which an appeal was taken for violation of a municipal ordinance. In addition, the mayor has the power to pardon those convicted and sentenced by the municipal judge for violations of municipal ordinances. However in an opinion to the city council of East Brewton, August 8, 1974, the Attorney General ruled that a mayor has no authority to remit forfeitures levied against sureties on appearance bonds by the municipal judge. AGO to Hon. Richmond McClintock, July 17, 1957. Likewise, the mayor has no authority to approve or order the approval of any appearance bonds. AGO 1991-374. Similarly, councilmembers may not sign as surety on bail bonds for persons arrested by municipal police officers. AGO 1990-282. Section 12-14-15 also requires the mayor to make a written report to the council at its first regular meeting each month, listing the fines and costs remitted, sentences commuted and pardons and paroles granted by the mayor during the preceding months and stating the reasons therefor. The council may, by a properly-adopted ordinance, authorize the mayor to administer oaths on behalf of the municipality, pursuant to Section 11-43-5, Code of Alabama 1975. AGO 1988-397. The mayor may serve as superintendent of the municipal utility system. The council has no authority to reduce the mayor's salary by the amount he or she receives for serving as superintendent. AGO 1989-070. Similarly, the council may not require the mayor to devote full time to his or her duties as mayor. AGO to Hon. William Willis, January 20, 1960. However, the Legislature may, by local act, require the mayor to serve in a full-time capacity. AGO 88-298. See also, AGO 2005-076.

### **Legislative Powers of the Council**

The council as a body establishes municipal policy, and the mayor is charged with the duty of implementing that policy. For instance, in AGO 1989-243, the issue was whether the mayor or the council had authority to establish the working conditions of a police dispatcher. The Attorney General concluded that the mayor could require the dispatcher to work at city hall unless the council provided otherwise. The question of where the dispatcher performed her duties was a matter of policy, a decision for the council to resolve. Until the council acted, it was the mayor's decision. However, once the council acted, the mayor was required to implement that policy.

Another example of the legislative power of the council is found in AGO 1992-289. It concluded that the council is responsible for establishing policies which will be followed by municipal departments. Department heads may not set policies unless the council has delegated the authority to them. A council may delegate authority to set policy to the mayor, who may authorize department heads to determine policies which their departments will follow. Where the council has not acted, department heads may set informal procedures to be followed until the council acts.

Other examples of the legislative power of the council to draft city policy include AGO 1995-091, which concludes that the use of city-owned vehicles is under the control of the council, which should promulgate a policy regarding their use. This Opinion also makes clear that the council has the power to decide how much to reimburse an individual for the use of a personal vehicle on municipal business.

### **Subpoena Power**

A municipal council or a committee authorized by the council may, by resolution, issue subpoenas pursuant to Section 11-43-163 of the Code. This does not require a permanent resolution. The council or committee may impose punishment pursuant to Section 11-43-163 for failure to comply with the subpoena. AGO 1999-076.

### **Council Committees**

While no law requires a council to establish committees, most councils set up committees to study the needs of the various departments of municipal government and to make recommendations regarding the operating policy of each department. Council committees should confer with the mayor for his or her views on the policies and programs under consideration since, as the chief executive, the mayor will be responsible for carrying them out.

When questions about council committees arise, they usually involve the desire of councilmembers to directly control the functions of city employees. It must be remembered that council committees are not administrative bodies and have no authority to exercise any executive power over the administrative branch of the municipal government. This means that the council cannot direct and supervise the work of employees, even through the creation of a committee. AGO to Hon. Norman Plunkett, June 22, 1977; AGO 1988-262; and AGO 1991-147. Council committees are advisory only and cannot supervise or give directions to city employees. AGO 1985-156 (to Hon. H.T. Mathis, January 8, 1985).

The sole purpose of committees is to give detailed attention to the programs and policies concerning the departments entrusted to their study and to report their findings to the full council and the mayor so appropriate actions may be taken.

Generally, the presiding officer of the council makes appointments to the committees, which usually consist of three councilmembers each. However, in AGO 1981-409 (to Hon. Gwin Wells, June 4, 1981), the Attorney General stated that council committees may be appointed by the mayor, or by the mayor and the council, depending on the internal rules of procedure established by the council. The mayor of a municipality of under 12,000 in population is a member of the municipal council and therefore may vote on and serve on these committees.

Index Terms:

Powers,

Of appointment

Of dismissal

Legislative

Judicial

Contracts

Finances

Mayor, Full Time

## **Guidelines for Public Officials and Employees**

The purpose of these guidelines is to inform Public Officials and Employees of key provisions and prohibitions in the Revised Ethics Law.

These guidelines merely provide an overview of the law and, in no way, are intended to be a comprehensive review of the Ethics Law. The Ethics Law may be seen in its entirety on our website: [www.ethics.alabama.gov](http://www.ethics.alabama.gov). For a more comprehensive review, you can view our training video which can be found on our website as well. For further information or for any questions you may have, see our contact information on the last page of these guidelines.

Questions on matters concerning election finance laws to regulate and report the raising of campaign funds and expenditures, as well as questions relating to PAC-to-PAC transfers and double-dipping prohibitions, should be directed to the Office of the Attorney General (334.242.7300) and the Office of the Secretary of State (334.242.7200), as these matters are now dealt with under *The Fair Campaign Practices Act* and other recent acts.

### **Who Are Public Officials and Public Employees?**

#### **A Public Official is:**

"Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-13-40."

#### **A Public Employee is:**

"Any person employed at the state, county, or municipal level of government or their instrumentalities... For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

## **PERTINENT LAW**

### **PERSONAL USE OF OFFICE – Section 36-25-5(a) states:**

"No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

### **Section 36-25-5(b) states:**

"Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his or her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest."

### **Section 36-25-5(c) states:**

"No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-5-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy."

### **Section 36-25-5(e) states:**

"No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity."

### **CONTRIBUTIONS – Section 36-25-6 states:**

"Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use."

**SOLICITATION BY OFFICIAL OR EMPLOYEE – Section 36-25-7(a) states:**

"No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive anything for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value."

**Section 36-25-7(b) states:**

"No public official or public employee shall solicit or receive anything for himself or herself or for a family member of the public employee or family member of the public official for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value."

**CONFIDENTIAL INFORMATION – Section 36-25-8 states:**

"No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business."

**CONFLICT OF INTEREST – Section 36-25-9(c) states:**

"No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest."

**COMPENSATED REPRESENTATION – Section 36-25-10 states:**

"If a public official or public employee, or family member of the public employee or family member of the public official, or a business with which the person is associated, represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, notice of the representation shall be given within 10 days after the first day of the appearance. Notice shall be filed with the commission in the manner prescribed by it. No member of the Legislature shall for a fee, reward, or other compensation represent any person, firm, or corporation before the Public Service Commission or the State Board of Adjustment."

**PUBLIC CONTRACTS – Section 36-25-11 states:**

"Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into."

**REVOLVING DOOR – Section 36-25-13 states:**

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity."

"(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency."

"(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual."

"(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in



**Section 36-25-13, cont.**

which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment."

**LOBBYIST GIFTS – Section 36-25-5.1 states:**

"(a) No lobbyist, subordinate of a lobbyist, or principal shall offer or provide a thing of value to a public employee or public official or to a family member of the public employee or family member of the public official; and no public employee or public official or family member of the public employee or family member of the public official shall solicit or receive a thing of value from a lobbyist, subordinate of a lobbyist, or principal. Notwithstanding the foregoing, a lobbyist, or principal may offer or provide and a public official, public employee, or candidate may solicit or receive items of de minimis value."

**ETHICS TRAINING – Section 36-25-4.2 states:**

"At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists..."

Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness..."

All public employees required to file the Statement of Economic Interests required by Section 36-25-14, no later than May 1, 2011, shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the commission. Employees hired after January 1, 2011, shall have 90 days to comply with this subsection."

**ELECTRONIC DATABASE SEARCH – Section 36-25-4.3 states:**

"The commission, by April 1, 2012, shall implement and maintain each of the following:

**Section 36-25-4.3, cont.**

- (1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.
- (2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:
  - a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain.”

**EMPLOYMENT/CONTRACT DISCLOSURE – Section 36-25-5.2 states:**

“(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011, shall notify the commission of such employment or contract by September 13, 2011.”

**Definition of Economic Development Function is:**

“Any function reasonably and directly related to the advancement of a specific, good-faith economic development or trade promotion project or objective.”

**Definition of Educational Function is:**

“A meeting, event, or activity held within the State of Alabama, or if the function is predominantly attended by participants from other states, held within the continental United States, which is organized around a formal program or agenda of educational or informational speeches, debates, panel discussions, or other presentations concerning matters within the scope of the participants’ official duties or other matters of public policy, including social services and community development policies, economic development or trade, ethics, government services or programs, or government operations, and which, taking into account the totality of the program or agenda, could not reasonably be perceived as a subterfuge for a purely social, recreational, or entertainment function.”

**Definition of Widely Attended Event is:**

“A gathering, dinner, reception, or other event of mutual interest to a number of parties at which it is reasonably expected that more than 12 individuals will attend and that individuals with a diversity of views or interest will be present.”

**Definition of De Minimis is:**

“A value of twenty-five dollars (\$25) or less per occasion and an aggregate of fifty dollars (\$50) or less in a calendar year from a single provider...” (This definition shall become effective on August 1, 2012, Act 2012-433.)

**\*\*DO’S and DON’T’S UNDER THE NEW ETHICS LAW\*\***

**I. DON’T’S**

1. Don’t ... use your official position to obtain personal gain for yourself or family member or any business with which you are associated. Section 36-25-5(a)
2. Don’t ... as a member of a legislative body, vote for any legislation in which you know or should have known that you have a conflict of interest. Section 36-25-5(b)
3. Don’t ... use or cause the use of equipment, facilities, time, materials, human labor, or other public property under your discretion or control for the private benefit or business benefit of you, any other person, or principal campaign committee (defined in section 17-5-2), which would materially affect your financial interest. Section 36-25-5(c)
4. Don’t ... solicit a "thing of value" from a subordinate or person or business with whom you directly inspect, regulate, or supervise in your official capacity other than in the ordinary course of business. Section 36-25-5(e)
5. Don’t ... convert to personal use contributions to your inaugural or transitional fund. Section 36-25-6
6. Don’t ... solicit or receive anything for yourself or a family member for the purpose of corruptly influencing official action. Section 36-25-7(b)
7. Don’t ... solicit or receive any money in addition to that received in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which you are a member. Section 36-25-7(d)

8. Don't ... use or disclose confidential information gained in the course of or by reason of your position in any way that could result in financial gain, other than your regular salary, for yourself, a member of your family, or any other person or business. Section 36-25-8
9. Don't ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated. Section 36-25-9(a)
10. Don't ... you, a member of your household, or a business with which you are associated, enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds, unless the contract complies with Alabama competitive bidding laws and a copy of the contract is filed with the Ethics Commission within 10 days after the contract has been entered into. Section 36-25-11
11. Don't ... offer, give, solicit, or accept a "thing of value" to or from a member or employee of a governmental agency, board, or commission that regulates a business with which you are associated, other than in the ordinary course of business. Section 36-25-12
12. Don't ... serve for a fee as a lobbyist or otherwise represent clients, including your employer, before the board, agency, commission, department, or legislative body, of which you are a former member for a period of two years after you leave such membership, unless you are a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity. Section 36-25-13(a)
13. Don't ... enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which you were a member or employee for a period of two years after you leave the membership or employment of such governmental agency. Section 36-25-13(c)
14. Don't ... solicit or accept employment with a private business, corporation, partnership or individual which you formerly directly regulated, audited or investigated, within two years of your departure from such employment. Section 36-25-13(d)
15. Don't ... act as an attorney for any person other than yourself or the state, or aid, counsel, advise, consult or assist in representing any other person in a matter in which the state is a party, or has a direct and substantial interest, and in which you participated personally and substantially as a public official or was within your official responsibility, for a period of two years after termination of your state office. Section 36-25-13(e)

16. Don't ... solicit any lobbyist to give anything whether or not the thing solicited is a thing of value to any person or entity for any purpose other than a campaign contribution. Section 36-25-23(b)
17. Don't ... assume that you have no responsibilities under the Ethics Law even if you do not fit within the above categories, because, as shown below, any "person" can violate the Ethics Law for soliciting certain unlawful acts under the law.
18. Don't ... solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for your private benefit or business benefit which would materially affect your financial interest. Section 36-25-5(d)
19. Don't ... offer or give to a public official or public employee or family member of such person anything for the purpose of corruptly influencing official action. Section 36-25-7(a)
20. Don't ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated, except certain persons in the real estate field and other state-licensed professionals serving on certain boards and commissions. Section 36-25-9(a) and (b)
21. Don't ... knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch for the purpose of influencing legislation. Section 36-25-26(a)
22. Don't ... knowingly cause a document containing a false statement to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth for the purpose of influencing legislation. Section 36-25-26(b)
23. Don't ... accept a gift valued at more than \$25, or \$50 cumulatively, in a calendar year from any single provider. (Amount effective August 1, 2012, Act 2012-433)

## **II. DO'S**

1. Do ... introduce bills, ordinances, resolutions, or other legislative matters, serve on committees, or make statements or take action in the exercise of your duties as a public official, unless prohibited under the Constitution of Alabama. Section 36-25-5(b)

2. Do ... know that as a member of a legislative body you may not vote for any legislation in which you know or should have known that you have a conflict of interest. Section 36-25-5(b)
3. Do ... file notice with the Ethics Commission if you, a member of your family, or a business with which you are associated represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, within 10 days of the first day of the appearance. Section 36-25-10
4. Do ... file with the Ethics Commission a copy of any contract that you, a member of your household, or a business with which you are associated enter into, which is to be paid in whole or in part out of state, county or municipal funds, within 10 days after the contract has been entered into. Section 36-25-11
5. Do ... file a statement of economic interests with the Ethics Commission no later than April 30 of each year (if appointed or a public employee, then file only if your base pay is greater than \$75,000 per year). Section 36-25-14 (Threshold of \$75,000 will become effective on August 1, 2012, Act 2012-509)
6. Do ... if you are an election official... notify the Ethics Commission within five days of your receipt of a declaration of candidacy or your nomination of a candidate notify the Commission of the name of the candidate and the date on which the person became a candidate or was nominated as a public official. Section 36-25-15
7. Do ... make it a point to know the new laws. As always, ignorance of the law is not a defense. If you are a private citizen who happens to be an attorney, your responsibilities are even greater. You have a responsibility to your clients who may be construed as public officials or public employees or lobbyists to know the law and advise them accordingly.
8. Do ... when you, or a business with which you are associated, represent for a fee any person before a regulatory body of the Executive Branch, report to the Ethics Commission the name of any adult child, parent, spouse, brother or sister who is a public official or public employee of that regulatory body of the Executive Branch. Section 36-25-16(a).
9. Do ... when you, or any business with which you are associated, enter into a contract for the sale of goods or services to the State of Alabama, any county or municipality and any of their respective agencies in amounts greater than \$7,500, report to the Ethics Commission the names of any adult child, parent, spouse, brother, or sister who is a public official or public employee of the agency or department with whom the contract is made. Section 36-25-16(b).

(Not applicable to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding -- Section 36-25-16(c))

10. Do ... if you are not a "lobbyist" under the Ethics Law and negotiate or attempt to negotiate a contract, sell or attempt to sell goods or services, engage or attempt to engage in a financial transaction with a public official or public employee in their official capacity and expend in excess of \$250 in a calendar day on such person, file a detailed quarterly report of the expenditure with the Ethics Commission. Section 36-25-19(b)
11. Do ... understand that all "lobbyist" reports filed pursuant to Sections 36-25-18 to 36-25-20, inclusive, are public records and shall be made available for public inspection via the Commission's website. Section 36-25-21 and 36-25-4.3

### **Specifically Governmental Agency Heads**

1. Do ... file reports with the Ethics Commission within ten days on any matters that come to your attention in your official capacity which constitute a violation of the Ethics Act. Section 36-25-17(a)
2. Do ... cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the Ethics Commission. Section 36-25-17(b)

## **QUESTIONS AND ANSWERS**

### **QUESTION: Who must file a Statement of Economic Interests Form?**

**ANSWER:** Section 36-25-14 states:

- "(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission...by each of the following:
- (1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.
  - (2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is seventy-five thousand dollars (\$75,000) or more annually.  
(Effective August 1, 2012)

**Section 36-25-14, cont.**

- (3) All candidates, simultaneously with the date he or she becomes a candidate as defined in Section 17-5-2, or the date the candidate files his or her qualifying papers, whichever comes first.
- (4) Members of the Alabama Ethics Commission; appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards).
- (5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.
- (6) Chief clerks and chief managers.
- (7) Chief county clerks and chief county managers.
- (8) Chief administrators.
- (9) Chief county administrators.
- (10) Any public official or public employee whose primary duty is to invest public funds.
- (11) Chief administrative officers of any political subdivision.
- (12) Chief and assistant county building inspectors.
- (13) Any county or municipal administrator with power to grant or deny land development permits.
- (14) Chief municipal clerks.
- (15) Chiefs of police.
- (16) Fire chiefs.
- (17) City and county school superintendents and school board members.
- (18) City and county school principals or administrators.
- (19) Purchasing or procurement agents having the authority to make any purchase.



**Section 36-25-14, cont.**

- (20) Directors and assistant directors of state agencies.
- (21) Chief financial and accounting directors.
- (22) Chief grant coordinators.
- (23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.
- (24) Each employee of the Judicial Branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial or other similar positions.
- (25) Every full-time public employee serving as a supervisor.”  
(Effective August 1, 2012, Act Number 2012-509)

**QUESTION: When must a Statement of Economic Interests be filed?**

**ANSWER:** A statement of economic interest must be filed with the commission no later than April 30 of each year covering the preceding calendar year.

**QUESTION: What information is required to be included in the Statement of Economic Interests?**

**ANSWER:** The statement of economic interest must include the name, residential address, business; name, address, and business of the living spouse, and dependents of the public official or public employee required to file, as well as the name of living adult children, the name of parents and siblings, name of living parents of the spouse.

The statement must also contain a list of occupations to which one-third or more of working time was given during the previous reporting year by the public official, public employee, or his or her spouse.

The statement must contain a total combined household income of the public official or public employee from sources such as salaries, fees, dividends, profits, commissions, and other compensation. The income is to be listed and broken down into categories depending on the amount.

If the public official or employee or his or her spouse has, during the last reporting year, engaged in a business which provides legal, accounting, medical or health related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services, then the filing party is required to report the number of clients of the business in each of several categories. These categories are set out in Section 36-25-14(b)(4) of the Ethics Law.

**QUESTION: What is a Conflict of Interest?**

**ANSWER:** Section 36-25-1 states:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

**QUESTION: What is NOT a Conflict of Interest?**

**ANSWER:** Section 36-25-1 states:

"(8)...A conflict of interest shall not include any of the following:

- a. A loan or financial transaction made or conducted in the ordinary course of business.
- b. An occasional nonpecuniary award publicly presented by an organization for performance of public service.
- c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is

**Section 36-25-1(8), cont.**

scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state.

d. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official duties."

**QUESTION: What is a Thing of Value?**

**ANSWER:** Section 36-25-1 states:

"(33) THING OF VALUE. a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event, unsecured loan, other than those loans and forbearances made in the ordinary course of business, reward, promise of future employment, or honoraria or other item of monetary value."

**QUESTION: What is NOT a Thing of Value?**

**ANSWER:** Section 36-25-1(33) states:

- "b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:
1. A contribution under Chapter 5 of Title 17 or a contribution to an inaugural or transition committee.
  2. Anything given by a family member of the recipient under circumstances which make it clear that it is motivated by a family relationship.
  3. Anything given by a friend of the recipient under circumstances which make it clear that it is motivated by a friendship and not given because of the recipient's official position. Relevant factors include whether the friendship preexisted the recipient's status as a public employee, public

**Section 36-25-1(33), cont.**

official, or candidate and whether gifts have been previously exchanged between them.

4. Greeting cards, items, services with little intrinsic value which are intended solely for presentation such as plaques, certificates, and trophies, promotional items commonly distributed to the general public, and items or services of de minimis value.
5. Loans from banks and other financial institutions on terms generally available to the public.
6. Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all government employees.
7. Rewards and prizes given to competitors in contests or events including random drawings, which are open to the public.
8. Anything that is paid for by a governmental entity or an entity created by a governmental entity to support the governmental entity or secured by a governmental entity under contract, except for tickets to a sporting event offered by an educational institution to anyone other than faculty, staff, or administration of the institution.
9. Anything for which the recipient pays full value.
10. Compensation and other benefits earned from a non-government employer, vendor, client, prospective employer, or other business relationship in the ordinary course of employment or non-governmental business activities under circumstances which make it clear that the thing is provided for reasons unrelated to the recipient's public service as a public official or public employee.
11. Any assistance provided or rendered in connection with a safety or a health emergency.
12. Payment of or reimbursement for actual and necessary transportation and lodging expenses, as well as waiver of registration fees and similar costs, to facilitate the attendance of a public official or public employee, and the spouse of the public official or public employee, at an educational function or widely attended event of which the person is a primary sponsor. This exclusion applies only if the public official or public employee meaningfully participates in the event as a speaker

**Section 36-25-1(33), cont.**

or a panel participant, by presenting information related to his or her agency or matters pending before his or her agency, or by performing a ceremonial function appropriate to his or her official position; or if the public official's or public employee's attendance at the event is appropriate to the performance of his or her official duties or representative function.

13. Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public official's or public employee's participation in an economic development function.
14. Hospitality, meals, and other food and beverages provided to a public official or public employee, and the spouse of the public official or public employee, as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.
15. Any function or activity pre-certified by the Director of the Ethics Commission as a function that meets any of the above criteria.
16. Meals and other food and beverages provided to a public official or public employee in a setting other than any of the above functions not to exceed for a lobbyist twenty-five dollars (\$25) per meal with a limit of one hundred fifty dollars (\$150) per year; and not to exceed for a principal fifty dollars (\$50) per meal with a limit of two hundred fifty dollars (\$250) per year. Notwithstanding the lobbyist's limits herein shall not count against the principal's limits and likewise, the principal's limits shall not count against the lobbyist's limits.
17. Anything either (i) provided by an association or organization to which the state or, in the case of a local government official or employee, the local government pays annual dues as a membership requirement or (ii) provided by an association or organization to a public official who is a member of the association or organization and, as a result of his or her service to the association or organization, is deemed to be a public official. Further included in this exception is payment of reasonable compensation by a professional or local government association or corporation to a public official who is also an elected officer or director of the professional or local government association or corporation for services actually provided to the association or corporation in his or her capacity as an officer or director.

**Section 36-25-1(33), cont.**

18. Any benefit received as a discount on accommodations, when the discount is given to the public official because the public official is a member of an organization or association whose entire membership receives the discount.”

**QUESTION: Who may initiate a complaint with the Ethics Commission?**

**ANSWER:** Section 36-25-4 states:

"(c) ...The complaint may only be filed by a person who has or persons who have credible and verifiable information supporting the allegations contained in the complaint. A complainant may not file a complaint for another person or persons in order to circumvent this subsection... A complaint may be initiated by a vote of four members of the commission.."

**QUESTION: What is Personal Gain?**

**ANSWER:** Section 36-25-5 states:

"...Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

**QUESTION: What is an advisory opinion, and who may rely on an advisory opinion?**

**ANSWER:** An advisory opinion is the commission’s interpretation of a specific or hypothetical set of facts based on the law.

Section 36-25-4 states:

"(9) ... Such advisory opinions shall be adopted by a majority vote of the members of the commission present and shall be effective and deemed valid until expressly overruled or altered by the commission or a court of competent jurisdiction. The written advisory opinions of the commission shall protect the person at whose request the opinion was issued and any other person reasonably relying, in good faith, on the advisory opinion in a materially like circumstance from liability to the state, a county, or a municipal subdivision of the state because of any action performed or action refrained from in reliance of the advisory opinion. Nothing in this section shall be deemed to protect any person relying on the advisory

opinion if the reliance is not in good faith, is not reasonable, is not in a materially like circumstance. The commission may impose reasonable charges for publication of the advisory opinions and monies shall be collected, deposited, dispensed, or retained as provided herein."

**QUESTION: What are the penalties for violation of the Ethics Law?**

**ANSWER:** Section 36-25-14 states:

"(e) A person who intentionally violates any financial disclosure filing requirement of this chapter shall be subject to administrative fines imposed by the commission, or shall, upon conviction, be guilty of a Class A misdemeanor, or both.

Any person who unintentionally neglects to include any information relating to the financial disclosure filing requirements of this chapter shall have 90 days to file an amended statement of economic interests without penalty."

Section 36-25-26 states:

"No person, for the purpose of influencing legislation, may do either of the following:

(1) Knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch.

(2) Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth."

Section 36-25-27 states:

"(a)(1) Except as otherwise provided, any person subject to this chapter who intentionally violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class B felony."

"(4) Any person who knowingly makes or transmits a false report or complaint pursuant to this chapter shall, upon conviction, be guilty of a Class A misdemeanor and shall be liable for the actual legal expenses incurred by the respondent against whom the false report or complaint was filed.

(5) Any person who makes false statements to an employee of the commission or to the commission itself pursuant to this chapter without reason to believe the accuracy of the statements shall, upon conviction, be guilty of a Class A misdemeanor.

(6) Any person subject to this chapter who intentionally violates this chapter relating to secrecy shall, upon conviction, be guilty of a Class C felony.

(7) Any person subject to this chapter who intentionally fails to disclose information required by this chapter shall, upon conviction, be guilty of a Class A misdemeanor."

**QUESTION: If a public employee files a complaint with the Ethics Commission against a public official or employer in the public sector, are there any measures to safeguard the employee making the complaint?**

**ANSWER:** Yes.

Section 36-25-24 states:

"(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation."

**QUESTION: If a public employee makes a false complaint against an employer or a complaint that the employee knows lacks merit, is there any recourse on the part of the employer?**

**ANSWER:** Yes.

Section 36-25-24 states:

"(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result



**Section 36-25-24, cont.**

from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying."

**QUESTION: Are there any administrative remedies available under the Ethics Law?**

**ANSWER:** Yes.

Section 36-25-27 states:

"(b) The commission if petitioned or agreed to by a respondent and the Attorney General or district attorney having jurisdiction, by unanimous vote of the members present may administratively resolve a complaint filed pursuant to this chapter for minor violations. The commission may levy an administrative penalty not to exceed one thousand dollars (\$1,000) for any minor violation of this chapter including, but not limited to, the failure to timely file a complete and correct Statement of Economic Interests. The commission shall, in addition to any administrative penalty, order restitution in the amount of any economic loss to the state, county, and municipal governments and their instrumentalities and such restitution shall when collected be paid by the commission, to the entity having the economic loss."

**QUESTION: Who is charged with enforcing the Ethics Law?**

**ANSWER:** Section 36-25-27 states:

"(c) The enforcement of this chapter shall be vested in the commission; provided however, nothing in this chapter shall be deemed to limit or otherwise prohibit the Attorney General or the District Attorney for the appropriate jurisdiction from enforcing any provision of this chapter as they deem appropriate."

**QUESTION: What is the statute of limitations under the Ethics law?****ANSWER:** Section 36-25-27 states:

"(g ) Any felony prosecution brought pursuant to this chapter shall be commenced within four years after the commission of the offense.

(h) Any misdemeanor prosecution brought pursuant to this chapter shall be commenced within two years after the commission of the offense."

**QUESTION: Am I required to receive training on the Ethics Law****ANSWER:** Section 36-25-4.2 states:

"At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists...

Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness...

All public employees required to file the Statement of Economic Interests required by Section 36-25-14, no later than May 1, 2011, shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the commission. Employees hired after January 1, 2011, shall have 90 days to comply with this subsection."

**QUESTION: Is information filed with the Ethics Commission made available via the Internet?****ANSWER:** Yes.

Section 36-25-4.3 states:

"The commission, by April 1, 2012, shall implement and maintain each of the following:

- (1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.

**Section 36-25-4.3 states:**

- (2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:
- a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain.”

**QUESTION: Must I file public disclosure information with the Ethics Commission regarding state or federal employment or contracts involving me or my spouse?**

**ANSWER:** Yes.

Section 36-25-5.2 states:

“(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011 shall notify the commission of such employment or contract by September 13, 2011.”

As previously stated, these guidelines are intended to serve merely as an overview and not as a comprehensive review of the Ethics Law. If you have questions that were not answered or concerns that were not addressed by the guidelines, please review our website at: [www.ethics.alabama.gov](http://www.ethics.alabama.gov). On our website you will find the entire Ethics Law, all forms required to be filed under the statute and every advisory opinion rendered since 1995. If you have questions beyond those resources, please contact the Ethics Commission using the contact information below:

Alabama Ethics Commission  
RSA Union Building  
100 North Union Street, Suite 104  
Post Office Box 4840 (36103-4840)  
Montgomery, Alabama 36104  
Telephone: 334.242.2997  
Facsimile: 334.242.0248  
Email: [info@ethics.alabama.gov](mailto:info@ethics.alabama.gov)  
Website: [www.ethics.alabama.gov](http://www.ethics.alabama.gov)



*Guidelines for Public Officials and Employees was updated and edited to incorporate the 2010, 2011 and 2012 Amendments to the Ethics Law by James L. Sumner, Jr., Director, July 2012.*

# Alabama Photo Voter ID Guide



Elections Division  
Office of the Secretary of State  
Jim Bennett, Secretary of State  
State of Alabama

## STATE OF ALABAMA



OFFICE OF THE SECRETARY OF STATE

**JIM BENNETT**  
SECRETARY OF STATE

POST OFFICE BOX 5616  
MONTGOMERY, ALABAMA 36103

Dear Voter:

Beginning with the 2014 primary election, the State Legislature has mandated that a voter present photo ID prior to voting. Alabama is among 34 states that require voter identification at the polls.

If a voter does not have a valid photo ID, such as a driver's license, nondriver ID card, or any other valid photo ID card as listed on page 7 of this guide, the voter may receive one free of charge from her or his county Board of Registrars or at the Secretary of State's office.

During the months just preceding the June 3, 2014 primary election, mobile vans will visit each county to provide eligible voters convenient locations to apply for and obtain a free Alabama photo voter ID card.

A voter who is required to present valid photo identification but who does not do so will be allowed to vote a provisional ballot as provided for by law.

In addition, a voter who does not have a valid photo ID in his or her possession at the polls will be permitted to vote a regular ballot if the individual is positively identified by two election officials as an eligible voter in their precinct.

This booklet is an educational tool to inform voters about the recent changes in voter identification requirements and seeks to prevent any confusion that may be experienced on election day. Please review the new standards and, if you have questions, you may call our Elections Division at 1-800-274-8683 or 334-242-7210 or visit [www.alabamavoterid.com](http://www.alabamavoterid.com).

Exercise your right to vote. Your participation is vital in selecting the future leadership of our state at all levels of government.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Bennett".

Jim Bennett  
Secretary of State

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# **ALABAMA PHOTO VOTER ID GUIDE**

Prepared by the  
Office of the Secretary of State  
State of Alabama

March 2014

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**HAVE QUESTIONS?**

Contact the Elections Division in the office of the Secretary of State:

Physical Address:

600 Dexter Avenue, Room E-208  
Montgomery, Alabama 36130

Mailing Address:

P.O. Box 5616  
Montgomery, Alabama 36103-5616

Telephone:

334-242-7210 or 1-800-274-8683

World Wide Web:

[www.alabamavoterid.com](http://www.alabamavoterid.com)  
[www.alabamavotes.gov](http://www.alabamavotes.gov)

E-mail:

[alavoter@vote.alabama.gov](mailto:alavoter@vote.alabama.gov)

**LEGAL DISCLAIMER**

This document is not a substitute for the *Code of Alabama, 1975*. It is provided as a guide and is not intended to be an authoritative statement of law. For further legal information, please consult the Code of Alabama, or other appropriate legal resources or your attorney.

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## **CHANGE IN LAW**

During the 2011 Regular Legislative Session the Legislature approved House Bill 19. Governor Robert Bentley signed the bill, and it was subsequently assigned Act Number 2011-673.

**Beginning with the June 3, 2014 primary election, Act 2011-673 requires an Alabama voter to have a specific type of photo identification at the polls in order to vote.** If a voter does not have one of the approved forms of photo ID as stated in the law, then he or she may receive a free Alabama photo voter ID card from various locations.

This guide will explain that process and let voters know how to be prepared for the June 3, 2014 primary election. For more information, you may contact the Elections Division of the Office of the Secretary of State at 800-274-8683 or 334-242-7210.

## **IMPLEMENTATION PROCESS**

The Secretary of State's office was tasked with writing administrative rules to direct the process of receiving free photo ID's. Those administrative rules can be viewed on the Secretary of State's website at [www.sos.alabama.gov](http://www.sos.alabama.gov) or [www.alabamavotes.gov](http://www.alabamavotes.gov). The Secretary of State was also tasked with selecting a vendor for processing the cards. Police and Sheriff's Press, Inc. was chosen as the vendor. The Secretary of State's office set up training and provided equipment for the process to begin in all 67 counties in the State of Alabama.

## **WHAT ID WILL BE VALID AT THE POLLS BEGINNING JUNE 3, 2014?**

A voter can use any of the following forms of photo ID at the polls starting June 3, 2014:

- ▶ Valid Alabama Driver's License
- ▶ Valid Alabama Nondriver ID
- ▶ Valid Alabama Photo Voter ID Card
- ▶ Valid State Issued ID (Alabama or any other state)
- ▶ Valid Federal issued ID
- ▶ Valid US passport
- ▶ Valid Employee ID from Federal Government, State of Alabama, County, Municipality, Board or other entity of this state
- ▶ Valid student or employee ID from a public or private college or university in the State of Alabama (including postgraduate technical or professional schools)
- ▶ Valid student or employee ID issued by a state institution of higher learning in any other state
- ▶ Valid Military ID
- ▶ Valid Tribal ID



If a voter possesses any of these forms of ID, he/she is not eligible to receive a free Alabama photo voter ID card. The voter must bring one of these photo IDs to the polls on Election Day or place a copy of the ID in absentee ballot materials.

A voter who is required to present valid photo identification but who does not do so will be allowed to vote a provisional ballot as provided by law. The voter casting a provisional ballot will have until 5:00PM on the Friday after the election to submit valid photo identification, otherwise the ballot will not be counted.

In addition, a voter who does not have a valid photo ID in his or her possession at the polls shall be permitted to vote a regular ballot if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and the election officials

sign a sworn affidavit so stating.

### **What if I do not have any of these forms of ID?**

If a voter does not have one of the valid forms of photo ID, then that voter may obtain a free Alabama photo voter ID card or a free nondriver ID for purposes of voting.

### **FREE NONDRIVER ID**

As another option, a voter who does not have any of the acceptable forms of photo ID may obtain a free nondriver ID for purposes of voting.



Voters will have to fill out a form with the Department of Public Safety and sign a form attesting that they do not have one of the valid forms of photo ID.

A voter must comply with all rules set forth by the Department of Public Safety and adhere to those requirements in order to receive the free nondriver ID.

### **WHERE CAN I GET MY FREE ALABAMA PHOTO VOTER ID CARD?**

A voter may obtain a free Alabama photo voter ID card at the following locations:

- ▶ **Secretary of State's office**  
600 Dexter Avenue  
Montgomery, Alabama 36130
- ▶ **Boards of Registrars offices**  
Located in each county. Please see the appendix in this guide for addresses and phone numbers of the various county locations.
- ▶ **At a mobile location to be determined by the Secretary of State's office**  
The mobile locations will be announced by various forms of advertising.



Please note that applicants are instructed not to complete the application for a free Alabama photo voter ID card if they already

possess one of the valid forms of photo identification. Any falsification or fraud in completing the application shall constitute a Class C felony (see page 13<sup>Ⓢ</sup>).

## **WHAT IS NEEDED TO OBTAIN MY FREE ALABAMA PHOTO VOTER ID CARD?**

To receive a free Alabama photo voter ID card a voter must show:

- ▶ A photo ID document or a non-photo identity document can be used if it contains your full legal name and date of birth;
- ▶ Documentation showing the voter's date of birth (can be verified by information in the statewide voter file);
- ▶ Documentation showing the person is a registered voter (can be verified by voter registration information);\*
- ▶ Documentation showing the voter's name and address as reflected in the voter registration record (can be verified by voter registration information).\*

**\*THE PROCESSING AGENTS WILL VERIFY THIS ITEM NEEDED TO RECEIVE THE FREE ALABAMA PHOTO VOTER ID CARD BY CHECKING THE VOTER'S RECORD IN THE STATEWIDE VOTER REGISTRATION SYSTEM.**



### **What if I'm not registered to vote?**

You must be a registered voter in order to obtain a free Alabama photo voter ID card or free nondriver ID.

- ▶ The Registrar or the mobile unit worker will check the voter registration status when the voter submits the application.
- ▶ If you are in the Board of Registrars office, you may simultaneously register to vote and apply for a free Alabama photo voter ID card if there is no issue with your registration.
- ▶ If a voter is applying for a free nondriver ID card, the voter will sign the application stating he or she is an Alabama elector.

**Examples of photo ID documents that can be used to obtain a free ALABAMA PHOTO VOTER ID CARD but CANNOT be used at the polls**

- ▶ A student ID issued by a public or private high school.
- ▶ A student or employee ID card issued by a private university or postgraduate technical or professional school located **OUTSIDE** the state of Alabama.
- ▶ An employee ID card **NOT** issued by a branch, department, agency, or entity of the US government, the State of Alabama, or any county, municipality, board, authority, or entity of the State of Alabama.
- ▶ Hospital/nursing home ID card.
- ▶ Wholesale club or other membership card.

**Examples of Non-Photo ID Documents that can be used to obtain a free ALABAMA PHOTO VOTER ID CARD**

**ALL MUST CONTAIN FULL LEGAL NAME AND DATE OF BIRTH**

- ▶ Birth Certificate<sup>†</sup>
- ▶ Hospital or nursing home record
- ▶ Marriage Record<sup>‡</sup>
- ▶ State or Federal Census Record
- ▶ Military Record
- ▶ Medicare or Medicaid document
- ▶ Social Security Administration document
- ▶ Certificate of Citizenship
- ▶ Official school record or transcript

<sup>†</sup>The Secretary of State's office has entered an agreement with the Alabama Department of Public Health whereby a free birth or marriage certificate will be provided to the processing or issuing agent when a voter needs one of these documents in order to obtain a free Alabama photo voter ID card. This certificate is for voting purposes only, is provided electronically, and cannot be

used for any other purpose. For more information, please call the Secretary of State's office at 1-800-274-8683.

## **AFTER COMPLETING THE APPLICATION AND SHOWING DOCUMENTATION, WHAT HAPPENS NEXT?**

- ▶ The voter's information will be entered into the Alabama photo voter ID card issuance system and his or her photo taken.
- ▶ The person processing the application for the free Alabama photo voter ID card will give the voter a receipt, much like a temporary driver's license, which can be used to vote for 45 days after receipt.
- ▶ Voters should receive their free Alabama photo voter ID card within 14 days of processing.

## **IS MY FREE ALABAMA PHOTO VOTER ID CARD SECURE?**

The vendor selected to produce the IDs has set many security measures within both the ID card itself and the receipt. It will be extremely difficult for someone to fake an Alabama photo voter ID card.

County-level poll workers will be trained in these security measures and will know what to look for on Election Day.



## **WHAT ABOUT VOTERS WHOSE POLLING PLACE IS INACCESSIBLE DUE TO AGE OR DISABILITY?**

The Secretary of State's office has addressed voters who are elderly or who have a disability with an exception to the absentee ballot ID requirement when the voter's polling place is not accessible. ✦



A voter who is entitled to vote by absentee ballot pursuant to the Voting Accessibility for the Elderly and Handicapped Act or any other federal law **shall not be required to produce identification when**



## **voting by absentee ballot.**

Voters who fall within this category will be able to check a box on their absentee ballot application which states that their polling place is not accessible and that they fall under the definition of elderly (age 65 or older) or handicapped. The Absentee Election Manager will not require an ID in order for these ballots to be counted.

### **✦ Definition of “accessible” as it relates to voters who are elderly or who have a disability**

Pursuant to Section 8 of the Voting Accessibility for the Elderly and Handicapped Act (subchapter 1-F of Chapter 20 of Title 42 U.S.C) the Secretary of State has determined that the term “accessible” as applied to handicapped and elderly voters shall mean that the location of the polling place is physically accessible to handicapped and elderly voters.



If a handicapped or elderly voter is unable to access his or her assigned polling place due to a neurological, musculoskeletal, respiratory, cardiovascular, or other life-altering disorder that affects the ability to perform manual tasks, stand for any length of time, walk unassisted, see, hear, or speak, that voter’s polling place is not “accessible” to him or her.

### **WHAT ABOUT VOTERS WHO ARE MEMBERS OF THE MILITARY OR WHO RESIDE OVERSEAS?**

An individual eligible to vote by absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) is not required to provide ID prior to voting.

The term “UOCAVA voter” includes anyone who is a member of the Uniformed Services (including his or her spouse and dependents), Merchant Marines, commissioned corps of the Public Health Service, and the National Oceanic and Atmospheric Administration. It also includes anyone who is a U.S. citizen residing overseas whose last place of residency prior to moving overseas was in Alabama.

**ALABAMA BOARDS OF REGISTRARS  
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

**Autauga County**

218 N. Court St.  
Prattville 36067  
(334) 358-6740

**Baldwin County**

119 West 2nd St  
Bay Minette 36507  
(251) 937-0305

1100 Fairhope Ave  
Fairhope 36532  
(251) 928-3002 ext 2617

201 E Section Ave  
Foley 36535  
(251) 943-5061 ext 2859

**Barbour County**

113 Court Street  
Clayton 36016  
(334) 775-8579

303 E Broad St Rm 108  
Eufaula 36027  
(334) 687-1585

**Bibb County**

8 Court Square W  
Centreville 35042  
(205) 926-3102

**Blount County**

220 Second Ave E Rm B-5  
Oneonta 35121  
(205) 625-4182

**Bullock County**

217 Prairie St N Rm 101  
Union Springs 36089-1659  
(334) 738-5372

**Butler County**

700 Court Sq Rm 8  
Greenville 36037-2308  
(334) 382-5685  
(334) 382-6829

**Calhoun County**

1702 Noble St Ste 113  
Anniston 36201-3889  
(256) 241-2930

**Chambers County**

18 Alabama Ave E Rm 101  
LaFayette 36862  
(334) 864-4313

610 S Gilmer Ave  
Lanett 36863  
(334) 644-7781

**Cherokee County**

260 Cedar Bluff Rd Ste 106  
Centre 35960-1403  
(256) 927-5336

**Chilton County**

500 2nd Ave N Rm 119  
Clanton 35045  
(205) 755-3820

**Choctaw County**

117 S Mulberry Ave Ste 1  
Butler 36904-0132  
(205) 459-2531

**Clarke County**

114 Court St  
Grove Hill 36451  
(251) 275-3062

**Clay County**

1 Courthouse Square, 1st  
Floor  
Ashland 36251  
(256) 354-7815

**Cleburne County**

120 Vickery St Rm 103  
Heflin 36264-1166  
(256) 463-5299

**Coffee County**

6 County Complex  
New Brockton 36351-9791  
(334) 894-5347

**Colbert County**

201 N Main St  
Tuscumbia 35674-2095  
(256) 386-8535

**Conecuh County**

111 Court St Rm 102  
Evergreen 36401  
(251) 578-7024

**Coosa County**

9709 US Hwy 231  
Rockford 35136  
(256) 377-2418

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⊕ (from page 9) At the time of publication of this document, the Alabama Legislature was considering SB164 which would reduce the criminal penalty for falsifying or fraudulently making an application for an Alabama photo voter ID card. Please check the Secretary of State's voter ID web site for any changes to the criminal penalty:

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

**ALABAMA BOARDS OF REGISTRARS  
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

**Covington County**

228 Hillcrest Dr  
Andalusia 36420-2570  
(334) 428-2685

**Crenshaw County**

29 S Glenwood Ave  
Luverne 36049  
(334) 335-6568 x252  
(334) 335-6568 x253

**Cullman County**

500 2nd Ave SW Ste 112  
Cullman 35055-4135  
(256) 775-4697  
(256) 775-4750

**Dale County**

100 Court Square  
Ozark 36360  
(334) 774-9038

**Dallas County**

105 Lauderdale St Rm 122  
Selma 36701  
(334) 874-2534

**DeKalb County**

111 Grand Ave SW Ste 105  
Fort Payne 35967  
(256) 845-8598

**Elmore County**

100 E Commerce St Rm 205  
Wetumpka 36092-2746  
(334) 567-1150  
(334) 567-1197

**Escambia County**

301 Belleville Ave Rm 204  
Brewton 36426  
(251) 867-0243  
(251) 867-0312

**Etowah County**

800 Forrest Ave Ste 206  
Gadsden 35901-3651  
(256) 549-5384

**Fayette County**

103 First Ave NW Ste 4  
Fayette 35555-2627  
(205) 932-5432

**Franklin County**

410 Jackson Ave  
Russellville 35653  
(256) 332-8849

**Geneva County**

200 N Commerce St  
Geneva 36340  
(334) 684-5655

**Greene County**

110 Main Street  
Eutaw 35443  
(205) 372-9669

**Hale County**

905D Centerville St  
Greensboro 36744-1536  
(334) 624-4672

**Henry County**

101 Court Square Ste K  
Abbeville 36310-2135  
(334) 585-6080

**Houston County**

462 N Oates  
Dothan 36303  
(334) 677-4776

**Jackson County**

102 E Laurel St  
Scottsboro 35768  
(256) 574-9339  
(256) 574-9335

**Jefferson County**

716 R Arrington Jr Blvd N  
Ste A-410  
Birmingham 35203-0115  
(205) 325-5550

**Lamar County**

44690 Hwy 17  
Vernon 35592  
(205) 695-6348  
(205) 695-9197

**Lauderdale County**

200 South Court Street  
Florence 35630  
(256) 760-5840  
(256) 760-5841

**Lawrence County**

14451 Market Street Ste 340  
Moulton 35650  
(256) 974-2460  
(256) 974-2461

**Lee County**

215 S 9th St  
Opelika 36801  
(334) 737-3635

**Limestone County**

100 Clinton St S Ste E  
Athens 35611-2665  
(256) 233-6405

**Lowndes County**

205 Tuskeena St E Rm 101  
Hayneville 36040  
(334) 548-2389  
(334) 548-2080

**Macon County**

101 Rosa Parks Ave Ste 100  
Tuskegee 36083-1735  
(334) 724-2617

**ALABAMA BOARDS OF REGISTRARS  
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

**Madison County**

819 Cook Ave NW, Ste 150  
Huntsville 35801-5983  
(256) 532-3510  
(256) 532-3519

**Marengo County**

101 E Coats Ave  
Linden 36748  
(334) 295-2249  
(334) 295-2086

**Marion County**

132 Military Street South  
Hamilton 35570  
(205) 921-3625

**Marshall County**

424 Blount Ave Ste 106A  
Guntersville 35976-1122  
(256) 571-7740

**Mobile County**

151 Government St Ste 165  
Mobile 36602  
(251) 574-8586  
(251) 574-8587

**Monroe County**

65 N. Alabama Ave.  
Monroeville 36460  
(251) 743-4107 x141

**Montgomery County**

100 S Lawrence St  
Montgomery 36104  
(334) 832-1215

**Morgan County**

302 Lee St NE  
Decatur 35601  
(256) 351-4660  
(256) 351-4663

**Perry County**

300 Washington St Ste 102  
Marion 36756  
(334) 683-2218

**Pickens County**

155 Reform Street, Suite 303  
Carrollton 35447  
(205) 367-2074

**Pike County**

120 W Church St Rm B2  
Troy 36081-1913  
(334) 566-1757  
(334) 566-6449

**Randolph County**

2 First Street NE  
Wedowee 36278  
(256) 357-2138

**Russell County**

1000 Broad St  
Phenix City 36867  
(334) 298-1443  
(334) 448-1508

**Shelby County**

108 W College Street  
Ste 100  
Columbiana 35051  
(205) 669-3913

**St. Clair County**

1815 Cogswell Ave Ste B-25  
Pell City 35125  
(205) 338-3954

**Sumter County**

311 S Washington St  
Livingston 35470  
(205) 652-7902

**Talladega County**

400 N Norton Ave  
Sylacauga 35150-2010  
(256) 249-1007  
(256) 249-1014

**Tallapoosa County**

1 Courthouse Square  
Talladega 35160  
(256) 761-2131  
(256) 761-2132

**Tallapoosa County**

125 N Broadnax St Rm 20  
Dadeville 36853-1371  
(256) 825-1081

**Tuscaloosa County**

2501 7th St Ste 200  
Tuscaloosa 35401-1801  
(205) 349-3870 x415

**Walker County**

1803 3rd Ave Ste 109A  
Jasper 35501  
(205) 384-7279

**Washington County**

45 Court St  
Chatom 36558  
(251) 847-3255

**Wilcox County**

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Camden 36726  
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**Winston County**

11 Blake Dr Rm 3  
Double Springs 35553  
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**CODE OF ALABAMA  
1975**

**Code of Ethics for Public Officials,  
Employees, etc.**

**Chapter 25 of Title 36  
(Public Officers and Employees)**

**(Sections 36-25-1 through 36-25-30)**

**Alabama Ethics Commission  
Suite 104, RSA Union Building  
100 North Union Street  
Montgomery, Alabama 36104**

**Telephone 334-242-2997  
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Web Site [www.ethics.alalinc.net](http://www.ethics.alalinc.net)**

**James L. Sumner, Jr., Director**

**CODE OF ALABAMA**

**TITLE 36.**

**PUBLIC OFFICERS AND EMPLOYEES**

**CHAPTER 25**

**CODE OF ETHICS FOR PUBLIC OFFICIALS, EMPLOYEES, ETC.**

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**Section 36-25-1****Definitions.**

Whenever used in this chapter, the following words and terms shall have the following meanings:

- (1) **BUSINESS.** Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, or any other legal entity.
- (2) **BUSINESS WITH WHICH THE PERSON IS ASSOCIATED.** Any business of which the person or a member of his or her family is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business.
- (3) **CANDIDATE.** This term as used in this chapter shall have the same meaning ascribed to it in Section 17-22A-2.
- (4) **COMMISSION.** The State Ethics Commission.
- (5) **COMPLAINT.** Written allegation or allegations that a violation of this chapter has occurred.
- (6) **COMPLAINANT.** A person who alleges a violation or violations of this chapter by filing a complaint against a respondent.
- (7) **CONFIDENTIAL INFORMATION.** A complaint filed pursuant to this chapter, together with any statement, conversations, knowledge of evidence, or information received from the complainant, witness, or other person related to such complaint.
- (8) **CONFLICT OF INTEREST.** A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs. A conflict of interest shall not include any of the following:
  - a. A loan or financial transaction made or conducted in the ordinary course of business.
  - b. An occasional nonpecuniary award publicly presented by an organization for performance of public service.
  - c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state.
  - d. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official



duties.

(9) DAY. Calendar day.

(10) DEPENDENT. Any person, regardless of his or her legal residence or domicile, who receives 50 percent or more of his or her support from the public official or public employee or his or her spouse or who resided with the public official or public employee for more than 180 days during the reporting period.

(11) FAMILY MEMBER OF THE PUBLIC EMPLOYEE. The spouse or a dependent of the public employee.

(12) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, a sibling and his or her spouse, of the public official.

(13) GOVERNMENTAL CORPORATIONS AND AUTHORITIES. Public or private corporations and authorities, including but not limited to, hospitals or other health care corporations, established pursuant to state law by state, county or municipal governments for the purpose of carrying out a specific governmental function. Notwithstanding the foregoing, all employees, including contract employees, of hospitals or other health care corporations and authorities are exempt from the provisions of this chapter.

(14) HOUSEHOLD. The public official, public employee, and his or her spouse and dependents.

(15) LAW ENFORCEMENT OFFICER. A full-time employee of a governmental unit responsible for the prevention or investigation of crime who is authorized by law to carry firearms, execute search warrants, and make arrests.

(16) LEGISLATIVE BODY. The Senate of Alabama, the House of Representatives of Alabama, a county commission, city council, city commission, town council, or municipal council or commission, and any committee or subcommittee thereof.

(17) LOBBYING. The practice of promoting, opposing, or in any manner influencing or attempting to influence the introduction, defeat, or enactment of legislation before any legislative body; opposing or in any manner influencing the executive approval, veto, or amendment of legislation; or the practice of promoting, opposing, or in any manner influencing or attempting to influence the enactment, promulgation, modification, or deletion of regulations before any regulatory body; provided, however, that providing public testimony before a legislative body or regulatory body or any committee thereof shall not be deemed lobbying.

(18) LOBBYIST.

a. The term lobbyist includes any of the following:

1. A person who receives compensation or reimbursement from another person, group, or entity to lobby.
2. A person who lobbies as a regular and usual part of employment, whether or not any

compensation in addition to regular salary and benefits is received.

3. A person who expends in excess of one hundred dollars (\$100) for a thing of value, not including funds expended for travel, subsistence expenses, and literature, buttons, stickers, publications, or other acts of free speech, during a calendar year to lobby.

4. A consultant to the state, county, or municipal levels of government or their instrumentalities, in any manner employed to influence legislation or regulation, regardless whether the consultant is paid in whole or part from state, county, municipal, or private funds.

5. An employee, a paid consultant, or a member of the staff of a lobbyist, whether or not he or she is paid, who regularly communicates with members of a legislative body regarding pending legislation and other matters while the legislative body is in session.

b. The term lobbyist does not include any of the following:

1. A member of a legislative body on a matter which involves that person's official duties.

2. A person or attorney rendering professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation, executive action, or rules or regulations, where those professional services are not otherwise connected with legislative, executive, or regulatory action.

3. Reporters and editors while pursuing normal reportorial and editorial duties.

4. Any citizen not expending funds as set out above in paragraph a.3. or not lobbying for compensation who contacts a member of a legislative body, or gives public testimony on a particular issue or on particular legislation, or for the purpose of influencing legislation and who is merely exercising his or her constitutional right to communicate with members of a legislative body.

5. A person who appears before a legislative body, a regulatory body, or an executive agency to either sell or purchase goods or services.

6. A person whose primary duties or responsibilities do not include lobbying, but who may, from time to time, organize social events for members of a legislative body to meet and confer with members of professional organizations and who may have only irregular contacts with members of a legislative body when the body is not in session or when the body is in recess.

(19) MINOR VIOLATION. Any violation of this chapter in which the public official or public employee receives an economic gain in an amount less than two hundred fifty dollars (\$250) or the governmental entity has an economic loss of less than two hundred fifty dollars (\$250).

(20) PERSON. A business, individual, corporation, partnership, union, association, firm, committee, club, or other organization or group of persons.

(21) PRINCIPAL. A person or business which employs, hires, or otherwise retains a lobbyist. Nothing in this chapter shall be deemed to prohibit a principal from simultaneously serving as his or her own lobbyist.

(22) PROBABLE CAUSE. A finding that the allegations are more likely than not to have occurred.

(23) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income.

(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2.

(25) REGULATORY BODY. A state agency which issues regulations in accordance with the Alabama Administrative Procedure Act or a state, county, or municipal department, agency, board, or commission which controls, according to rule or regulation, the activities, business licensure, or functions of any group, person, or persons.

(26) REPORTING PERIOD. The reporting official's or employee's fiscal tax year as it applies to his or her United States personal income tax return.

(27) REPORTING YEAR. The reporting official's or employee's fiscal tax year as it applies to his or her United States personal income tax return.

(28) RESPONDENT. A person alleged to have violated a provision of this chapter and against whom a complaint has been filed with the commission.

(29) STATEMENT OF ECONOMIC INTERESTS. A financial disclosure form made available by the commission which shall be completed and filed with the commission prior to April 30 of each year covering the preceding calendar year by certain public officials and public employees.

(30) SUPERVISOR. Any person having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, or discipline other public employees, or any person responsible to direct them, or to adjust their grievances, or to recommend personnel action, if, in connection with the foregoing, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment.

(31) THING OF VALUE.

a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event offered only to public officials, unsecured loan, other than those loans made in the ordinary

course of business, reward, promise of future employment, or honoraria.

b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

1. Campaign contribution.

2. Seasonal gifts of an insignificant economic value of less than one hundred dollars (\$100) if the aggregate value of such gifts from any single donor is less than two hundred fifty dollars (\$250) during any one calendar year.

3. Hospitality extended to a public official, public employee, and his or her respective household as a social occasion in the form of food and beverages where the provider is present, lodging in the continental United States and Alaska incidental to the social occasion, and tickets to social or sporting events if the hospitality does not extend beyond three consecutive days and is not continuous in nature and the aggregate value of such hospitality in excess of two hundred fifty dollars (\$250) within a calendar day is reported to the commission by the provider provided that the reporting requirement contained in this section shall not apply where the expenditures are made to or on behalf of an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any charitable, education or eleemosynary cause of Section 501 of Title 26 of the U.S. Code, and where the public official or public employee does not receive any direct financial benefit. The reporting shall include the name or names of the recipient or recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure.

4. Reasonable transportation, food and beverages where the provider is present, and lodging expenses in the continental United States and Alaska which are provided in conjunction with an educational or informational purpose, together with any hospitality associated therewith; provided, that such hospitality is less than 50 percent of the time spent at such event, and provided further that if the aggregate value of such transportation, lodging, food, beverages, and any hospitality provided to such public employee, public official, and his or her respective household is in excess of two hundred fifty dollars (\$250) within a calendar day the total amount expended shall be reported to the commission by the provider. The reporting shall include the name or names of the recipient or recipients, the value of the entire expenditure, the date or dates of the expenditure, and the type of expenditure.

5. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence of a public official or public employee in connection with an economic development research or trade mission, or for attendance at a mission or meeting in which he or she is scheduled to meaningfully participate, or regarding matters related to his or her official duties, and for which attendance no reimbursement is made by the state; provided, that any hospitality in the form of entertainment, recreation, or sporting events shall constitute less than 25% of the time spent in connection with the event. If the aggregate value of any such hospitality extended to the public employee, public official, and his or her respective household is in excess of two hundred fifty dollars (\$250) within a calendar day, the total amount expended for that day shall be reported to the commission by the provider. The reporting shall include the name or names of the recipient or

recipients, the value of such expenditures, the date or dates of the expenditure, and the type of expenditure.

6. Promotional items commonly distributed to the general public and food or beverages of a nominal value.

c. Nothing in this chapter shall be deemed to limit, prohibit, or otherwise require the disclosure of a personal gift made to a public official or public employee from a spouse, intended spouse, dependent, adult child, sibling, parent, grandparent, uncle, aunt, nephews, nieces or cousins of the public official or public employee, except as otherwise provided by law.

d. Nothing in this chapter shall be deemed to limit, prohibit, or otherwise require the disclosure of gifts through inheritance received by a public employee or public official.

(32) VALUE. The fair market price of a like item if purchased by a private citizen.

*(Acts 1973, No. 1056, p. 1699, &sect;2; Acts 1975, No. 130, p. 603, &sect;1; Acts 1979, No. 79-698, p. 1241; Acts 1982, No. 82-429, p. 677; Acts 1986, No. 86-321, p. 475, &sect;1; Acts 1995, No. 95-194, p. 269, &sect;1; Acts 1997, No. 97-651, p. 1217, &sect;1.)*

### **Section 36-25-2**

#### **Legislative findings and declarations; purpose of chapter.**

(a) The Legislature hereby finds and declares:

(1) It is essential to the proper operation of democratic government that public officials be independent and impartial.

(2) Governmental decisions and policy should be made in the proper channels of the governmental structure.

(3) No public office should be used for private gain other than the remuneration provided by law.

(4) It is important that there be public confidence in the integrity of government.

(5) The attainment of one or more of the ends set forth in this subsection is impaired whenever there exists a conflict of interest between the private interests of a public official or a public employee and the duties of the public official or public employee.

(6) The public interest requires that the law protect against such conflicts of interest and establish appropriate ethical standards with respect to the conduct of public officials and public employees in situations where conflicts exist.

(b) It is also essential to the proper operation of government that those best qualified be encouraged to serve in government. Accordingly, legal safeguards against conflicts of interest shall be so designed as not to unnecessarily or unreasonably impede the service of those men and women who are elected or appointed to do so. An essential principle underlying the staffing of our governmental structure is that its public officials and public employees should not be denied the

opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of public officials and public employees to the public cannot be avoided.

(c) The Legislature declares that the operation of responsible democratic government requires that the fullest opportunity be afforded to the people to petition their government for the redress of grievances and to express freely to the legislative bodies and to officials of the executive branch, their opinions on legislation, on pending governmental actions, and on current issues. To preserve and maintain the integrity of the legislative and administrative processes, it is necessary that the identity, expenditures, and activities of certain persons who engage in efforts to persuade members of the legislative bodies or members of the executive branch to take specific actions, either by direct communication to these officials, or by solicitation of others to engage in such efforts, be publicly and regularly disclosed. This chapter shall be liberally construed to promote complete disclosure of all relevant information and to insure that the public interest is fully protected.

(d) It is the policy and purpose of this chapter to implement these objectives of protecting the integrity of all governmental units of this state and of facilitating the service of qualified personnel by prescribing essential restrictions against conflicts of interest in public service without creating unnecessary barriers thereto.

*(Acts 1973, No. 1056, p. 1699, §§1; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-3**

**State Ethics Commission - Creation, composition, qualifications, appointment, terms of office, vacancies, officers; annual reports; compensation; applicability of chapter to members, officers, etc.; director and staff.**

(a) There is hereby created a State Ethics Commission composed of five members, each of whom shall be a fair, equitable citizen of this state and of high moral character and ability. The following persons shall not be eligible to be appointed as members: (1) a public official; (2) a candidate; (3) a registered lobbyist and his or her principal; or (4) a former employee of the commission. For purposes of this section, a public official shall not be deemed to include a part-time municipal judge and a registered lobbyist shall not be deemed to include a person whose lobbying activities are limited to providing public testimony to a legislative body or regulatory body or committee thereof. No member of the commission shall be eligible for reappointment to succeed himself or herself. The members of the commission shall be appointed by the following officers: the Governor, the Lieutenant Governor, or in the absence of a Lieutenant Governor, the Presiding Officer of the Senate, and the Speaker of the House of Representatives and shall assume their duties upon confirmation by the Senate. The members of the first commission shall be appointed for terms of office expiring one, two, three, four and five years, respectively, from September 1, 1975. Successors to the members of the first commission shall serve for a term of five years beginning service on September 1 of the year appointed and serving until their successors are appointed and confirmed. If at any time there should be a vacancy on the commission, a successor member to serve for the unexpired term applicable to such vacancy shall be appointed by the Governor. The commission shall elect one member to serve as chair of the commission and one member to serve as vice chair. The vice chair shall act as chair in the absence or disability of the chair or in the event of a vacancy in that office.

Beginning with the first vacancy on the Ethics Commission after October 1, 1995, if there is not a Black member serving on the commission, that vacancy shall be filled by a Black appointee. Any vacancy thereafter occurring on the commission, shall also be filled by a Black appointee if there is no Black member serving on the commission at that time.

(b) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission, and three members thereof shall constitute a quorum.

(c) The commission shall at the close of each fiscal year, or as soon thereafter as practicable, report to the Legislature and the Governor concerning the actions it has taken, the name, salary, and duties of the director, the names and duties of all individuals in its employ, the money it has disbursed, other relevant matters within its jurisdiction, and such recommendations for legislation as the commission deems appropriate.

(d) Members of the commission shall, while serving on the business of the commission, be entitled to receive compensation at the rate of fifty dollars (\$50) per day, and each member shall be paid his or her travel expenses incurred in the performance of his or her duties as a member of the commission as other state employees and officials are paid when approved by the chair. If for any reason a member of the commission wishes not to claim and accept the compensation or travel expenses, the member shall inform the director, in writing, of the refusal. The member may at any time during his or her term begin accepting compensation or travel expenses; however, the

member's refusal for any covered period shall act as an irrevocable waiver for that period.

(e) All members, officers, agents, attorneys, and employees of the commission shall be subject to this chapter. The director, members of the commission, and all employees of the commission shall not engage in direct partisan political activity, including the making of campaign contributions, on the state, county, and local levels. The prohibition shall in no way act to limit or restrict such persons' ability to vote in any election.

(f) The commission shall appoint a full-time director. The director shall serve at the pleasure of the commission and shall appoint such other employees as needed. All such employees, except the director, shall be employed subject to the provisions of the State Merit System Law, and their compensation shall be prescribed pursuant to such law. The employment of attorneys shall be subject to subsection (h). The compensation of the director shall be fixed by the commission, payable as the salaries of other state employees. The director shall be responsible for the administrative operations of the commission and shall administer this chapter in accordance with the commission's policies. No regulation shall be implemented by the director until adopted by the commission in accordance with Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act.

(g) The director may appoint part-time stenographic reporters or certified court reporters, as needed, to take and transcribe the testimony in any formal or informal hearing or investigation before the commission or before any person authorized by the commission. The reporters shall not be full-time employees of the commission and shall not be subject to the Merit System law and may not participate in the State Retirement System.

(h) The director may, with the approval of the Attorney General, appoint a competent attorney as legal counsel for the commission. The legal counsel shall be of good moral and ethical character, licensed to practice law in this state, and a member in good standing of the Alabama Bar Association. The legal counsel shall be commissioned as an Assistant or Deputy Attorney General and shall, in addition to the powers and duties herein conferred, have the authority and duties of an Assistant or Deputy Attorney General, except, that his or her entire time shall be devoted to the commission. The attorney shall act as an attorney for the commission in actions or proceedings brought by or against the commission pursuant to any provisions of law under the commission's jurisdiction, or in which the commission joins or intervenes as to a matter within the commission's jurisdiction, or as a friend of the court or otherwise; provided however, nothing in this chapter shall be deemed as a direct grant of subpoena power to the commission.

(i) The director shall designate in writing the chief investigator, should there be one, and a maximum of six full-time investigators who shall be and are hereby constituted law enforcement officers of the State of Alabama with full and unlimited police power and jurisdiction to enforce the laws of this state pertaining to the operation and administration of the commission and this chapter. Investigators shall meet the requirements of the Alabama Peace Officers' Standards and Training Act, Sections 36-21-40 to 36-21-51, inclusive, and shall in all ways and for all purposes be considered law enforcement officers; provided however such investigators shall only exercise their power of arrest as granted under this chapter pursuant to an order issued by a court of competent jurisdiction.



*(Acts 1973, No. 1056, p. 1699; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-4**

**State Ethics Commission - Duties; complaint; investigation; rights of respondent concerning hearing; collection of fees; result once violation found.**

(a) The commission shall do all of the following:

- (1) Prescribe forms for statements required to be filed by this chapter and make the forms available to persons required to file such statements.
- (2) Prepare guidelines setting forth recommended uniform methods of reporting for use by persons required to file statements required by this chapter.
- (3) Accept and file any written information voluntarily supplied that exceeds the requirements of this chapter.
- (4) Develop, where practicable, a filing, coding, and cross-indexing system consistent with the purposes of this chapter.
- (5) Make reports and statements filed with the commission available during regular business hours to public inquiry subject to such regulations as the commission may prescribe including, but not limited to, regulations requiring identification by name, occupation, address, and telephone number of each person examining information on file with the commission.
- (6) Preserve reports and statements for a period consistent with the statute of limitations as contained in this chapter. The reports and statements, when no longer required to be retained, shall be disposed of by shredding the reports and statements and disposing of or recycling them, or otherwise disposing of the reports and statements in any other manner prescribed by law. Nothing in this section shall in any manner limit the Department of Archives and History from receiving and retaining any documents pursuant to existing law.
- (7) Make investigations with respect to statements filed pursuant to this chapter, and with respect to alleged failures to file, or omissions contained therein, any statement required pursuant to this chapter and, upon complaint by any individual, with respect to alleged violation of any part of this chapter to the extent authorized by law when in its opinion a thorough audit of any person or any business should be made in order to determine whether this chapter has been violated, the commission shall direct the Examiner of Public Accounts to have an audit made and a report thereof filed with the commission. The Examiner of Public Accounts shall, upon receipt of the directive, comply therewith.
- (8) Report suspected violations of law to the appropriate law-enforcement authorities.
- (9) Issue and publish advisory opinions on the requirements of this chapter, based on a real or hypothetical set of circumstances. Such advisory opinions shall be adopted by a majority vote of the members of the commission present and shall be effective and deemed valid until expressly overruled or altered by the commission or a court of competent jurisdiction. The written advisory

opinions of the commission shall protect the person at whose request the opinion was issued and any other person reasonably relying, in good faith, on the advisory opinion in a materially like circumstance from liability to the state, a county, or a municipal subdivision of the state because of any action performed or action refrained from in reliance of the advisory opinion. Nothing in this section shall be deemed to protect any person relying on the advisory opinion if the reliance is not in good faith, is not reasonable, is not in a materially like circumstance. The commission may impose reasonable charges for publication of the advisory opinions and monies shall be collected, deposited, dispensed, or retained as provided herein. On October 1, 1995, all prior advisory opinions of the commission in conflict with this chapter, shall be ineffective and thereby deemed invalid and otherwise overruled unless there has been any action performed or action refrained from in reliance of a prior advisory opinion.

(10) Initiate and continue, where practicable, programs for the purpose of educating candidates, officials, employees, and citizens of Alabama on matters of ethics in government service.

(11) In accordance with Sections 41-22-1 to 41-22-27, inclusive, the Alabama Administrative Procedure Act, prescribe, publish, and enforce rules and regulations to carry out this chapter.

(b) A complaint filed pursuant to this chapter, together with any statement, evidence, or information received from the complainant, witnesses, or other persons shall be protected by and subject to the same restrictions relating to secrecy and nondisclosure of information, conversation, knowledge, or evidence of Sections 12-16-214 to 12-16-216, inclusive. Such restrictions shall apply to all investigatory activities taken by the director, the commission or a member thereof, staff, employees, or any person engaged by the commission in response to a complaint filed with the commission and to all proceedings relating thereto before the commission.

(c) The commission shall not take any investigatory action on a telephonic or written complaint against a respondent so long as the complainant remains anonymous. Investigatory action on a complaint from an identifiable source shall not be initiated until the true identity of the source has been ascertained and written verification of such ascertainment is in the commission's files. The complaint may only be filed by a person who has or persons who have actual knowledge of the allegations contained in the complaint. A complainant may not file a complaint for another person or persons in order to circumvent this subsection. Prior to commencing any investigation, the commission shall: (1) receive a written and signed complaint which sets forth in detail the specific charges against a respondent, and the factual allegations which support such charges and (2) the director shall conduct a preliminary inquiry in order to make an initial determination that reasonable cause exists to conduct an investigation. If the director determines reasonable cause does not exist, the charges shall be dismissed, but such action must be reported to the commission. The commission shall be entitled to authorize an investigation upon a unanimous written consent of all five (5) commission members, upon an express finding that probable cause exists that a violation or violations of this chapter have occurred. A complaint may be initiated by the unanimous vote of the commission, provided, however, that the commission shall not conduct the hearing, but rather the hearing shall be conducted by three (3) active or retired judges, who shall be appointed by the Chief Justice of the Alabama Supreme Court, at least one of whom shall be Black. The three (3) judge panel shall conduct the hearing in accordance with the procedures contained in this chapter and in accordance with the rules and regulations of the commission. If the

three (3) judge panel unanimously finds that a person covered by this chapter has violated it, the three (3) judge panel shall forward the case to the district attorney for the jurisdiction in which the alleged acts occurred or to the Attorney General. In all matters that come before the commission concerning a complaint on an individual, the laws of due process shall apply.

(d) Not less than 45 days prior to any hearing before the commission, the respondent shall be given notice that a complaint has been filed against him or her and shall be given a summary of the charges contained therein. Upon the timely request of the respondent, a continuance of the hearing for not less than 30 days shall be granted for good cause shown. The respondent charged in the complaint shall have the right to be represented by retained legal counsel. The commission may not require the respondent to be a witness against himself or herself.

(e) The commission shall provide discovery to the respondent pursuant to the Alabama Rules of Criminal Procedure as promulgated by the Alabama Supreme Court.

(f)(1) All fees, penalties, and fines collected by the commission pursuant to this chapter shall be deposited into the State General Fund.

(2) All monies collected as reasonable payment of costs for copying, reproductions, publications, and lists shall be deemed a refund against disbursement and shall be deposited into the appropriate fund account for the use of the commission.

(g) If the commission finds cause that a person covered by this chapter has violated it, the case and the commission's findings shall be forwarded to the district attorney for the jurisdiction in which the alleged acts occurred or to the Attorney General. The case, along with the commission's findings, shall be referred for appropriate legal action. Nothing in this section shall be deemed to limit the commission's ability to take appropriate legal action when so requested by the district attorney for the appropriate jurisdiction or by the Attorney General.

*(Acts 1973, No. 1056, p. 1699, §§18; Acts 1975, No. 130, p. 603, §§1; Acts 1979, No. 79-460, p. 814; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-5**

##### **Use of official position or office for personal gain.**

(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.

(b) Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his or her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest.

(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy. Provided, however, nothing in this subsection shall be deemed to limit or otherwise prohibit communication between public officials or public employees and eleemosynary or membership organizations or such organizations communicating with public officials or public employees.

(d) No person shall solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for such person's private benefit or business benefit, which would materially affect his or her financial interest, except as otherwise provided by law.

(e) No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity.

(f) A conflict of interest shall exist when a member of a legislative body, public official, or public employee has a substantial financial interest by reason of ownership of, control of, or the exercise of power over any interest greater than five percent of the value of any corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation; or who is an officer or director for any such corporation, company, association, or firm, partnership, proprietorship, or any other business entity of any kind or character which is uniquely affected by proposed or pending legislation.

*(Acts 1973, No. 1056, p. 1699, &&&sect;3; Acts 1975, No. 130, &&&sect;1; Acts 1995, No. 95-194, p. 269, &&&sect;1; Act 2000-797, &&sect; 1.)*

#### **Section 36-25-6**

##### **Use of contributions.**

Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use.

*(Acts 1973, No. 1056, p. 1699, §§4; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1; Acts 1997, No. 97-651, p. 1217, §§1.)*

#### **Section 36-25-7**

**Offering, soliciting, or receiving things of value for purpose of influencing official action; money solicited or received in addition to that received in official capacity.**

(a) No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive a thing of value for the purpose of influencing official action.

(b) No public official or public employee shall solicit or receive a thing of value for himself or herself or for a family member of the public employee or family member of the public official for the purpose of influencing official action.

(c) No person shall offer or give a family member of the public official or family member of the public employee a thing of value for the purpose of influencing official action.

(d) No public official or public employee, shall solicit or receive any money in addition to that received by the public official or public employee in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which he or she is a member. Notwithstanding the foregoing, nothing in this section shall be construed to prohibit a public official or public employee from the performance of his or her official duties or responsibilities.

*(Acts 1973, No. 1056, p. 1699, §§5; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-8**

**Use or disclosure of confidential information for private financial gain.**

No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business.

*(Acts 1973, No. 1056, p. 1699, §§6; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-9**

**Service on regulatory boards and commissions regulating business with which person associated; members who have financial interest in matter prohibited from voting.**

(a) Unless expressly provided otherwise by law, no person shall serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which he is associated. Nothing herein shall prohibit real estate brokers, agents, developers, appraisers, mortgage bankers, or other persons in the real estate field, or other state-licensed professionals, from serving on any planning boards or commissions, housing authorities, zoning board, board of adjustment, code enforcement board, industrial board, utilities board, state board, or commission.

(b) All county or municipal regulatory boards, authorities, or commissions currently comprised of any real estate brokers, agents, developers, appraisers, mortgage bankers, or other persons in the real estate industry may allow these individuals to continue to serve out their current term if appointed before December 31, 1991, except that at the conclusion of such term subsequent appointments shall reflect that membership of real estate brokers and agents shall not exceed more than one less of a majority of any county or municipal regulatory board or commission effective January 1, 1994.

(c) No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest.

(d) All acts, actions, and votes taken by such local boards and commissions between January 1, 1991 and December 31, 1993 are affirmed and ratified.

*(Acts 1973, No. 1056, p. 1699, §§7; Acts 1975, No. 130, §§1; Acts 1992, No. 92-342, p. 719, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-10**

**Representation of client or constituent before board, regulatory body, department, etc.**

If a public official or public employee, or family member of the public employee or family member of the public official, or a business with which the person is associated, represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, notice of the representation shall be given within 10 days after the first day of the appearance. Notice shall be filed with the commission in the manner prescribed by it. No member of the Legislature shall for a fee, reward, or other compensation represent any person, firm, or corporation before the Public Service Commission or the State Board of Adjustment.

*(Acts 1973, No. 1056, p. 1699, §§8; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-11**

**Public officials or employees entering into contracts which are to be paid out of government funds.**

Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into.

*(Acts 1973, No. 1056, p. 1699, §§9; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-12**

**Offering, soliciting, etc., thing of value to or by member of regulatory body.**

No person shall offer or give to a member or employee of a governmental agency, board, or commission that regulates a business with which the person is associated, and no member or employee of a regulatory body, shall solicit or accept a thing of value while the member or employee is associated with the regulatory body other than in the ordinary course of business. In addition to the foregoing, the commissioner of the Department of Agriculture and Industries and any candidate for the office of commissioner may not accept a campaign contribution from a person associated with a business regulated by the department.

*(Acts 1973, No. 1056, p. 1699, §§ 10; Acts 1975, No. 130, p. 603, §§1; Acts 1995, No. 95-194, p. 269, §§ 1; Act 2001-474, p. 635, §§ 1.)*

**Section 36-25-13**

**Actions of former public officials or public employees prohibited for two years after departure.**

(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.

(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such prohibition shall not include a former employee of the Alabama

judiciary who as an attorney represents a client in a legal, non-lobbying capacity.

(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.

(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.

(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment.

(f) Nothing in this chapter shall be deemed to limit the right of a public official or public employee to publicly or privately express his or her support for or to encourage others to support and contribute to any candidate, political committee as defined in Section 17-22A-2, referendum, ballot question, issue, or constitutional amendment.

*(Acts 1973, No. 1056, p. 1699, §§11; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-14**

##### **Filing of statement of economic interests.**

(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission no later than April 30 of each year covering the period of the preceding calendar year by each of the following:

- (1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.
- (2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is fifty thousand dollars (\$50,000) or more annually.
- (3) All candidates, simultaneously with the date he or she becomes a candidate as defined in



Section 17-22A-2, or the date the candidate files his or her qualifying papers, whichever comes first.

(4) Members of the Alabama Ethics Commission; appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards).

(5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.

(6) Chief clerks and chief managers.

(7) Chief county clerks and chief county managers.

(8) Chief administrators.

(9) Chief county administrators.

(10) Any public official or public employee whose primary duty is to invest public funds.

(11) Chief administrative officers of any political subdivision.

(12) Chief and assistant county building inspectors.

(13) Any county or municipal administrator with power to grant or deny land development permits.

(14) Chief municipal clerks.

(15) Chiefs of police.

(16) Fire chiefs.

(17) City and county school superintendents and school board members.

(18) City and county school principals or administrators.

(19) Purchasing or procurement agents having the authority to make any purchase.

(20) Directors and assistant directors of state agencies.

(21) Chief financial and accounting directors.

(22) Chief grant coordinators.

(23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.

(24) Each employee of the judicial branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial, or other similar positions.

(b) Unless otherwise required by law, no public employee occupying a position earning less than fifty thousand dollars (\$50,000) per year shall be required to file a statement of economic interests. Notwithstanding the provisions of subsection (a) or any other provision of this chapter, no coach of an athletic team of any four-year institution of higher education which receives state funds shall be required to include any income, donations, gifts, or benefits, other than salary, on the statement of economic interests, if the income, donations, gifts, or benefits are a condition of the employment contract. Such statement shall be made on a form made available by the commission. The duty to file the statement of economic interests shall rest with the person covered by this chapter. Nothing in this chapter shall be construed to exclude any public employee or public official from this chapter regardless of whether they are required to file a statement of economic interests. The statement shall contain the following information on the person making the filing:

(1) Name, residential address, business; name, address, and business of living spouse and dependents; name of living adult children; name of parents and siblings; name of living parents of spouse. Undercover law enforcement officers may have their residential addresses and the names of family members removed from public scrutiny by filing an affidavit stating that publicizing this information would potentially endanger their families.

(2) A list of occupations to which one third or more of working time was given during previous reporting year by the public official, public employee, or his or her spouse.

(3) A listing of total combined household income of the public official or public employee during the most recent reporting year as to income from salaries, fees, dividends, profits, commissions, and other compensation and listing the names of each business and the income derived from such business in the following categorical amounts: less than one thousand dollars (\$1,000); at least one thousand dollars (\$1,000) and less than ten thousand dollars (\$10,000); at least ten thousand dollars (\$10,000) and less than fifty thousand dollars (\$50,000); at least fifty thousand dollars (\$50,000) and less than one hundred fifty thousand dollars (\$150,000); at least one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); or at least two hundred fifty thousand dollars (\$250,000) or more. The person reporting shall also name any business or subsidiary thereof in which he or she or his or her spouse or dependents, jointly or severally, own five percent or more of the stock or in which he or she or his or her spouse or dependents serves as an officer, director, trustee, or consultant where the service provides income of at least one thousand dollars (\$1,000) and less than five thousand dollars (\$5,000); or at least five thousand dollars (\$5,000) or more for the reporting period.

(4) If the filing public official or public employee, or his or her spouse, has engaged in a business during the last reporting year which provides legal, accounting, medical or health related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services or consultations, then the filing party shall report the number of clients of such business in each of the following categories and the income in categorical amounts received during the reporting period from the combined number of clients in each category: electric utilities, gas utilities, telephone utilities, water utilities, cable television companies, intrastate transportation companies, pipeline companies, oil or gas exploration companies, or both, oil and gas retail

companies, banks, savings and loan associations, loan or finance companies, or both, manufacturing firms, mining companies, life insurance companies, casualty insurance companies, other insurance companies, retail companies, beer, wine or liquor companies or distributors, or combination thereof, trade associations, professional associations, governmental associations, associations of public employees or public officials, counties, and any other businesses or associations that the commission may deem appropriate. Amounts received from combined clients in each category shall be reported in the following categorical amounts: less than one thousand dollars (\$1,000); more than one thousand dollars (\$1,000) and less than ten thousand dollars (\$10,000); at least ten thousand dollars (\$10,000) and less than twenty-five thousand dollars (\$25,000); at least twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000); at least fifty thousand dollars (\$50,000) and less than one hundred thousand dollars (\$100,000); at least one hundred thousand dollars (\$100,000) and less than one hundred fifty thousand dollars (\$150,000); at least one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); or at least two hundred fifty thousand dollars (\$250,000) or more.

(5) If retainers are in existence or contracted for in any of the above categories of clients, a listing of the categories along with the anticipated income to be expected annually from each category of clients shall be shown in the following categorical amounts: less than one thousand dollars (\$1,000); at least one thousand dollars (\$1,000) and less than five thousand dollars (\$5,000); or at least five thousand dollars (\$5,000) or more.

(6) If real estate is held for investment or revenue production by a public official, his or her spouse or dependents, then a listing thereof in the following fair market value categorical amounts: under fifty thousand dollars (\$50,000); at least fifty thousand dollars (\$50,000) and less than one hundred thousand dollars (\$100,000); at least one hundred thousand dollars (\$100,000) and less than one hundred fifty thousand dollars (\$150,000); at least one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); at least two hundred fifty thousand dollars (\$250,000) or more. A listing of annual gross rent and lease income on real estate shall be made in the following categorical amounts: less than ten thousand dollars (\$10,000); at least ten thousand dollars (\$10,000) and less than fifty thousand dollars (\$50,000); fifty thousand dollars (\$50,000) or more. If a public official or a business in which the person is associated received rent or lease income from any governmental agency in Alabama, specific details of the lease or rent agreement shall be filed with the commission.

(7) A listing of indebtedness to businesses operating in Alabama showing types and number of each as follows: Banks, savings and loan associations, insurance companies, mortgage firms, stockbrokers and brokerages or bond firms; and the indebtedness to combined organizations in the following categorical amounts: Less than twenty-five thousand dollars (\$25,000); twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000); fifty thousand dollars (\$50,000) and less than one hundred thousand dollars (\$100,000); one hundred thousand dollars (\$100,000) and less than one hundred fifty thousand dollars (\$150,000); one hundred fifty thousand dollars (\$150,000) and less than two hundred fifty thousand dollars (\$250,000); two hundred fifty thousand dollars (\$250,000) or more. The commission may add additional business to this listing. Indebtedness associated with the homestead of the person filing is exempted from

this disclosure requirement.

(c) Filing required by this section shall reflect information and facts in existence at the end of the reporting year.

(d) If the information required herein is not filed as required, the commission shall notify the public official or public employee concerned as to his or her failure to so file and the public official or public employee shall have 10 days to file the report after receipt of the notification. The commission may, in its discretion, assess a fine of ten dollars (\$10) a day, not to exceed one thousand dollars (\$1,000), for failure to file timely.

(e) A person who intentionally violates any financial disclosure filing requirement of this chapter shall be subject to administrative fines imposed by the commission, or shall, upon conviction, be guilty of a Class A misdemeanor, or both.

Any person who unintentionally neglects to include any information relating to the financial disclosure filing requirements of this chapter shall have 90 days to file an amended statement of economic interests without penalty.

*(Acts 1973, No. 1056, p. 1699, §§12; Acts 1975, No. 130, §§1; Acts 1986, No. 86-321, p. 475, §§1; Acts 1995, No. 95-194, p. 269, §§1; Acts 1997, No. 97-651, p. 1217, §§1.)*

#### **Section 36-25-15**

#### **Candidates required to file statements of economic interests; official to notify commission of name of candidate; failure to submit statement.**

(a) Candidates at every level of government shall file a completed statement of economic interests for the previous calendar year with the appropriate election official simultaneously with the date he or she becomes a candidate as defined in Section 17-22A-2 or the date such candidate files his or her qualifying papers with the appropriate election official, whichever date occurs first. Such election official shall within five days forward the statement of economic interests of the candidate to the commission. Nothing in this section shall be deemed to require a second filing of the person's statement of economic interests if a current statement of economic interests is on file with the commission.

(b) Each election official who receives a declaration of candidacy or petition to appear on the ballot for election from a candidate and each official who nominates a person to serve as a public official shall, within five days of the receipt or nomination, notify the commission of the name of the candidate, as defined in this chapter, and the date on which the person became a candidate or was nominated as a public official.

(c) Other provisions of the law notwithstanding, if a candidate does not submit a statement of economic interests in accordance with the requirements of this chapter, the name of the person shall not appear on the ballot and the candidate shall be deemed not qualified as a candidate in that election. Notwithstanding the foregoing, the commission may, for good cause shown, allow the candidate an additional five days to file such statement of economic interests. If a candidate is deemed not qualified, the appropriate election official shall remove the name of the candidate from

the ballot.

*(Acts 1973, No. 1056, p. 1699, §§13; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1; Acts 1997, No. 97-651, p. 1217, §§1.)*

#### **Section 36-25-16**

##### **Reports by persons who are related to public officials or public employees and who represent persons before regulatory body or contract with state.**

(a) When any citizen of the state or business with which he or she is associated represents for a fee any person before a regulatory body of the executive branch, he or she shall report to the commission the name of any adult child, parent, spouse, brother, or sister who is a public official or a public employee of that regulatory body of the executive branch.

(b) When any citizen of the state or business with which the person is associated enters into a contract for the sale of goods or services to the State of Alabama or any of its agencies or any county or municipality and any of their respective agencies in amounts exceeding seven thousand five hundred dollars (\$7,500), he or she shall report to the commission the names of any adult child, parent, spouse, brother, or sister who is a public official or public employee of the agency or department with whom the contract is made.

(c) This section shall not apply to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding.

(d) Each regulatory body of the executive branch, or any agency of the State of Alabama shall be responsible for notifying citizens affected by this chapter of the requirements of this section.

*(Acts 1973, No. 1056, p. 1699, §§15; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-17**

##### **Reports of violations; cooperation of agency heads.**

(a) Every governmental agency head shall within 10 days file reports with the commission on any matters that come to his or her attention in his or her official capacity which constitute a violation of this chapter.

(b) Governmental agency heads shall cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the commission.

*(Acts 1973, No. 1056, p. 1699, §§16; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-18**

**Registration of lobbyists required; filing of supplemental registration.**

(a) Every lobbyist shall register by filing a form prescribed by the commission no later than January 31 of each year or within 10 days after the first undertaking requiring such registration. Each lobbyist, except public employees who are lobbyists, shall pay an annual fee of one hundred dollars (\$100) on or before January 31 of each year or within 10 days of the first undertaking requiring such registration.

(b) The registration shall be in writing and shall contain the following information:

(1) The registrant's full name and business address.

(2) The registrant's normal business and address.

(3) The full name and address of the registrant's principal or principals.

(4) The listing of the categories of subject matters on which the registrant is to communicate directly with a member of the legislative body to influence legislation or legislative action.

(5) If a registrant's activity is done on behalf of the members of a group other than a corporation, a categorical disclosure of the number of persons of the group as follows: 1-5; 6-10; 11-25; over 25.

(6) A statement signed by each principal that he or she has read the registration, knows its contents and has authorized the registrant to be a lobbyist in his or her behalf as specified therein, and that no compensation will be paid to the registrant contingent upon passage or defeat of any legislative measure.

(c) A registrant shall file a supplemental registration indicating any substantial change or changes in the information contained in the prior registration within 10 days after the date of the change.

*(Acts 1973, No. 1056, p. 1699, §§19; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-19**

**Registered lobbyists and other persons required to file quarterly reports.**

(a) Every person registered as a lobbyist pursuant to Section 36-25-18 and every principal employing any lobbyist shall file with the commission a report provided by the commission pertaining to the activities set out in that section. The report shall be filed with the commission no later than January 31, April 30, July 31, and October 31 for each preceding calendar quarter, and contain, but not be limited to, the following information:

(1) The cost of those items excluded from the definition of a thing of value which are described in Section 36-25-1(32)b. and which are expended within a 24-hour period on a public official, public employee, and members of his or her respective household in excess of two hundred fifty dollars (\$250) with the name or names of the recipient or recipients and the date of the expenditure.

(2) The nature and date of any financial transaction between the public official, candidate, or member of the household of such public official or candidate and the lobbyist or principal of a

value in excess of five hundred dollars (\$500) in the prior quarter, excluding those financial transactions which are required to be reported by candidates under the Fair Campaign Practices Act as provided in Chapter 22A (commencing with Section 17-22A-1) of Title 17.

(3) A detailed statement showing the exact amount of any loan given or promised to a public official, candidate, public official or candidate.

(4) A detailed statement showing any direct business association or partnership with any public official, candidate, or members of the household of such public official or candidate; provided, however, that campaign expenditures shall not be deemed a business association or partnership.

(b) Any person not otherwise deemed a lobbyist pursuant to this chapter who negotiates or attempts to negotiate a contract, sells or attempts to sell goods or services, engages or attempts to engage in a financial transaction with a public official or public employee in their official capacity and who within a calendar day expends in excess of two hundred fifty dollars (\$250) on such public employee, public official, and his or her respective household shall file a detailed quarterly report of the expenditure with the commission.

(c) Any other provision of this chapter to the contrary notwithstanding, no organization whose officer or employee serves as a public official under this chapter shall be required to report expenditures or reimbursement paid to such officer or employee in the performance of the duties with the organization.

*(Acts 1973, No. 1056, p. 1699, §§20; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-20**

#### **Filing of notice of termination of lobbying activities; effect of notice as to requirement for filing of reports.**

(a) A person who ceases to engage in activities requiring registration pursuant to Section 36-25-18 shall file a written, verified statement with the commission acknowledging the termination of activities. The notice shall be effective immediately.

(b) A person who files a notice of termination pursuant to this section shall file the reports required pursuant to Sections 36-25-18 and 36-25-19 for any reporting period during which he or she was registered pursuant to this chapter.

*(Acts 1973, No. 1056, p. 1699, §§21; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-21**

#### **Reports constitute public records; reports available for public inspection.**

All reports filed pursuant to Sections 36-25-18 to 36-25-20, inclusive, are public records and shall be made available for public inspection during regular business hours.

*(Acts 1973, No. 1056, p. 1699, §§22; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-22**

**Sections 36-25-18 to 36-25-21 not to be construed as affecting certain professional services.**

Sections 36-25-18 to 36-25-21, inclusive, shall not be construed as affecting professional services in drafting bills or in advising clients and in rendering opinions as to the construction and effect of proposed or pending legislation, executive action, rules, or regulations, where those professional services are not otherwise connected with legislative, executive, or regulatory action.

*(Acts 1973, No. 1056, p. 1699, §§24; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-23**

**Floor privileges of former members of Legislature for lobbying purposes; solicitation of lobbyists by public officials or employees; contracts to provide lobbying services contingent upon legislative action.**

(a) No former member of the House of Representatives or the Senate of the State of Alabama shall be extended floor privileges of either body in a lobbying capacity.

(b) No public official, public employee, or group of public officials or public employees shall solicit any lobbyist to give any thing whether or not the thing solicited is a thing of value to any person or entity for any purpose other than a campaign contribution.

(c) No principal or lobbyist shall accept compensation for, or enter into a contract to provide lobbying services which is contingent upon the passage or defeat of any legislative action.

*(Acts 1973, No. 1056, p. 1699, §§28; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-24**

**Supervisor prohibited from discharging or discriminating against employee where employee reports violation.**

(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation.

(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying.

(c) No public employee shall file a complaint or otherwise initiate action against a public official



or other public employee without a good faith basis for believing the complaint to be true and accurate.

(d) A supervisor who is alleged to have violated this section shall be subject to civil action in the circuit courts of this state pursuant to the Alabama Rules of Civil Procedure as promulgated by the Alabama Supreme Court.

(e) A public employee who without a good faith belief in the truthfulness and accuracy of a complaint filed against a supervisor, shall be subject to a civil action in the circuit courts in the State of Alabama pursuant to the Alabama Rules of Civil Procedure as promulgated by the Supreme Court. Additionally, a public employee who without a good faith belief in the truthfulness and accuracy of a complaint as filed against a supervisor shall be subject to appropriate and applicable personnel action.

(f) Nothing in this section shall be construed to allow a public employee to file a complaint to prevent, mitigate, lessen, or otherwise to extinguish existing or anticipated personnel action by a supervisor. A public employee who willfully files such a complaint against a supervisor shall, upon conviction, be guilty of the crime of false reporting.

*(Acts 1973, No. 1056, p. 1699, §§30; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-26**

#### **False reporting for purpose of influencing legislation.**

No person, for the purpose of influencing legislation, may do either of the following:

- (1) Knowingly or willfully make any false statement or misrepresentation of the facts to a member of the legislative or executive branch.
- (2) Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the legislative or executive branch without notifying the member in writing of the truth.

*(Acts 1973, No. 1056, p. 1699, §§23; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

#### **Section 36-25-27**

#### **Penalties for violations of provisions of chapter; administrative penalties; enforcement by Attorney General or district attorney; jurisdiction, venue, judicial review; limitations period.**

- (a)(1) Except as otherwise provided, any person subject to this chapter who intentionally violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class B felony.
- (2) Any person subject to this chapter who violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class A misdemeanor.

(3) Any person subject to this chapter who knowingly violates any disclosure requirement of this chapter shall, upon conviction, be guilty of a Class A misdemeanor.

(4) Any person who knowingly makes or transmits a false report or complaint pursuant to this chapter shall, upon conviction, be guilty of a Class A misdemeanor and shall be liable for the actual legal expenses incurred by the respondent against whom the false report or complaint was filed.

(5) Any person who makes false statements to an employee of the commission or to the commission itself pursuant to this chapter without reason to believe the accuracy of the statements shall, upon conviction, be guilty of a Class A misdemeanor.

(6) Any person subject to this chapter who intentionally violates this chapter relating to secrecy shall, upon conviction, be guilty of a Class A misdemeanor.

(7) Any person subject to this chapter who intentionally fails to disclose information required by this chapter shall, upon conviction, be guilty of a Class A misdemeanor.

(b) The commission if petitioned or agreed to by a respondent and the Attorney General or district attorney having jurisdiction, by unanimous vote of the members present may administratively resolve a complaint filed pursuant to this chapter for minor violations. The commission may levy an administrative penalty not to exceed one thousand dollars (\$1,000) for any minor violation of this chapter including, but not limited to, the failure to timely file a complete and correct statement of economic interests. The commission shall, in addition to any administrative penalty, order restitution in the amount of any economic loss to the state, county, and municipal governments and their instrumentalities and such restitution shall when collected be paid by the commission, to the entity having the economic loss. In any case in which an administrative penalty is imposed, the administrative penalty shall not be less than three times the amount of any economic loss to the state, county, and municipal governments or their instrumentalities or any economic gain or benefit to the public official or public employee, or whichever sum is greater. The commission, through its attorney, shall institute proceedings to recover any penalties or restitution or other such funds so ordered pursuant to this section which are not paid by, or on behalf of the public official or public employee or other person who has violated this chapter. Nothing in this section shall be deemed in any manner to prohibit the commission and the respondent from entering into a consent decree settling a complaint which has previously been designated by the commission for administrative resolution, so long as the consent decree is approved by the commission. If the commission, the respondent, and the Attorney General or district attorney having jurisdiction, all concur that a complaint is deemed to be handled administratively, the action shall preclude any criminal prosecution pursuant to this chapter at the state, county, or municipal level.

(c) The enforcement of this chapter shall be vested in the commission; provided however, nothing in this chapter shall be deemed to limit or otherwise prohibit the Attorney General or the district attorney for the appropriate jurisdiction from enforcing any provision of this chapter as they deem appropriate. In the event the commission, by majority vote, finds that any provision of this chapter has been violated, the alleged violation and any investigation conducted by the commission shall be referred to the district attorney of the appropriate jurisdiction or the Attorney General. The

commission shall provide any and all appropriate assistance to such district attorney or Attorney General. Upon the request of such district attorney or the Attorney General, the commission may institute, prosecute, or take such other appropriate legal action regarding such violations, proceeding therein with all rights, privileges, and powers conferred by law upon assistant attorneys general.

(d) Nothing in this chapter limits the power of the state to punish any person for any conduct which otherwise constitutes a crime by statute or at common law.

(e) The penalties prescribed in this chapter do not in any manner limit the power of a legislative body to discipline its own members or to impeach public officials and do not limit the powers of agencies, departments, boards, or commissions to discipline their respective officials, members, or employees.

(f) Each circuit court of this state shall have jurisdiction of all cases and actions relative to judicial review, violations, or the enforcement of this chapter, and the venue of any action pursuant to this chapter shall be in the county in which the alleged violation occurred, or in those cases where the violation or violations occurred outside the State of Alabama, in Montgomery County. In the case of judicial review of any administrative decision of the commission, the commission's order, rule, or decision shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the commission as to the weight of the evidence on questions of fact except where otherwise authorized by law.

(g) Any felony prosecution brought pursuant to this chapter shall be commenced within four years after the commission of the offense.

(h) Any misdemeanor prosecution brought pursuant to this chapter shall be commenced within two years after the commission of the offense.

(i) Nothing in this chapter is intended to nor is to be construed as repealing in any way the provisions of any of the criminal laws of this state.

*(Acts 1973, No. 1056, p. 1699, &sect;26; Acts 1975, No. 130, &sect;1; Acts 1986, No. 86-321, p. 475, &sect;1; Acts 1995, No. 95-194, p. 269, &sect;1; Acts 1996, No. 96-261, p. 307, &sect;1.)*

#### **Section 36-25-28**

#### **Chapter not to deprive citizens of constitutional right to communicate with members of Legislature.**

Nothing in this chapter shall be construed as to deprive any citizen, not lobbying, of the citizen's constitutional right to communicate with members of the Legislature.

*(Acts 1973, No. 1056, p. 1699, §§25; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-29**

**Appropriations.**

The Legislature shall appropriate such sums as it deems necessary to implement the provisions of and administer this chapter.

*(Acts 1973, No. 1056, p. 1699, §§29; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

**Section 36-25-30**

**Construction of chapter.**

This chapter shall be construed in pari materia with other laws dealing with the subject of ethics.

*(Acts 1973, No. 1056, p. 1699, §§32; Acts 1975, No. 130, §§1; Acts 1995, No. 95-194, p. 269, §§1.)*

## ARTICLE I. IN GENERAL

### Sec. 2-1. Costs of zoning, annexation or vacation hearings.

Before any public hearing before the city council shall be docketed or heard respecting the request, application or petition by any owners, or their agents, for any proposed amendment, supplement, modification or other change of the zoned district boundaries or the regulations thereof respecting their property or for the annexation of their property to the city or for any proposed vacation of a public street, or any part thereof, there shall first be paid, to the city by such owners, or their agents, the sum set forth in chapter 14 and an additional amount equal to the cost of postage for any notices required to be mailed in connection with such hearing plus the cost of any advertising required to be done in connection with such hearing, all to cover the approximate costs of such procedure. Once publication of such hearing has commenced or notice is mailed or advertisement is made, such sum shall not be refunded in whole or in part.

(Code 1996, § 2-20; Ord. No. 471, § 3; Ord. No. 727, § 1; Ord. No. 878, 6-25-1984)

**Secs. 2-2—2-20. Reserved.**

## ARTICLE II. CITY COUNCIL

### DIVISION 1. GENERALLY

#### Sec. 2-21. Composition; election at large.

The city governing body shall consist of a mayor and five councilmembers who shall be elected by a vote of the voters at large in the city. (Code 1996, § 2-5; Ord. No. 547, § 1; Ord. No. 969, § 1, 3-28-1988)

*State law reference*—Similar provisions, Code of Ala. 1975, §§ 11-43-2, 11-43-40.

#### Sec. 2-22. Positions of councilmembers to be numbered; candidates to run for specific positions.

The five municipal council positions in the city shall henceforth be designated by consecutively

numbered places. Candidates for said positions shall qualify and run for one (but only one) council position so designated.

(Code 1996, § 2-6; Ord. No. 547, § 2; Ord. No. 969, §§ 2, 3, 3-28-1988; Ord. No. 1627, § 1, 4-19-2004)

#### Sec. 2-23. Qualification fees for candidates for mayor and city council.

(a) A qualification fee in the amount s set forth in chapter 14 is hereby fixed and imposed upon all candidates seeking election as mayor of the city, except as hereinafter provided for.

(b) A qualification fee in the amount as set forth in chapter 14 is hereby fixed and imposed upon all candidates seeking election as councilmember of the city, except as hereinafter provided for.

(c) Such qualification fee shall be paid to the city clerk and deposited to the general fund of the city at or prior to the time of taking out qualification papers by any such candidates.

(d) Any person desiring to qualify who is not financially able to pay the required fee may qualify, provided such prospective candidate furnishes the city clerk with an affidavit stating that he is financially unable to pay the required fee fixed by this section.

(Code 1996, § 2-6.1; Ord. No. 976, §§ 1—5, 6-13-1988)

#### Sec. 2-24. Staggered terms of office for council members.

In accordance with Code of Ala. 1975, § 11-43-40(5), the city council adopts and approves staggered terms of office for its elected officials, which shall be implemented as follows:

- (1) The initial term of office for persons holding the odd-numbered council seats shall be established at two years.
- (2) The initial terms of office for persons holding the even-numbered council seats and that of the mayor of the city shall remain at four years.
- (3) Upon expiration of the initial two-year terms of office to be served by council members holding the odd-numbered seats,

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each council member thereafter elected to said seats shall hold office for a term of four years so that the mayor and all council members are elected for four-year terms of office with the terms to be staggered as provided herein.

(Code 1996, § 2-20.2; Ord. No. 1627, § 2, 4-19-2004)

**Sec. 2-25. Compensation of mayor.**

The mayor shall draw no salary or other compensation for his services to the city.

(Code 1996, § 2-1; Ord. No. 2)

State law reference—Compensation of mayor, Code of Ala. 1975, § 11-43-80.

**Sec. 2-26. Compensation of councilmembers.**

Councilmembers shall receive no salary for performing the duties of their offices.

(Code 1996, § 2-7; Ord. No. 547, § 3)

**Secs. 2-27—2-55. Reserved.**

## DIVISION 2. RULES OF ORDER AND PROCEDURE

**Sec. 2-56. Meetings.**

(a) *Rules of procedure.* Meetings of the city council shall be conducted in accordance with the applicable statutes of the state, as implemented by the rules of procedure contained in this article.

(b) *Time and place of regular meetings; special meetings.* Meetings of the council shall be held at the city hall or such other places within the city limits as the council may determine.

(1) Regular meetings shall be at such times as determined by the council.

(2) Written or oral notice of the time of any special meeting of the council as authorized by Code of Ala. 1975, § 11-43-5 shall, unless such meeting is announced at a regular meeting of council, be given to the city manager and to each councilmember at least 12 hours in advance of the meet-

ing. The failure of any of them to receive such notice shall not invalidate an action taken at such meetings if:

- a. Such person is present at the meeting or, either before or after the meeting, waives notice thereof; or
- b. Such action is ratified at a subsequent meeting of the council.

The business that may be transacted at a special meeting shall not be limited to the item indicated in the notice. To the extent practicable, notice of a special meeting shall also be given to the mayor and the clerk, but the failure of either or both of them to receive such notice shall not impair the validity and efficacy of the business transacted at the meeting.

(c) *Attendance and participation of mayor, city manager and other city officials; addressing council.*

(1) The mayor and the city manager shall have the privilege of participating in the council's discussions and deliberations, but the right to make motions and to vote is limited to councilmembers.

(2) Persons other than the councilmembers, mayor and city manager shall be allowed to address the council while in session only with the permission of and under the conditions and limitations prescribed by the council president. Any such person shall, when first recognized, state his name, address and, if applicable, the person or group represented; he shall identify himself again by name each subsequent time he is recognized.

(3) Meetings shall be attended by the city clerk, the city attorney and such other officers, agents or employees of the city as the council may from time to time determine.

(d) *Order of business.* The order of business shall be as directed by the council president, however, any councilmember may make additions to the agenda.

(Code 1996, §§ 2-8—2-11; Ord. No. 570, §§ 1—4; Ord. No. 890, § 1, 11-13-1984; Ord. No. 1564, 2-24-2003)

State law references—Provisions relative to meetings, Code of Ala. 1975, §§ 11-43-49, 11-43-50; city council authorized to enact rules of procedure, Code of Ala. 1975, § 11-43-52; attendance of the city clerk, Code of Ala. 1975, § 11-43-100.

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**Sec. 2-57. Informal discussions.**

Unless objection is raised by a councilmember, it shall be in order to permit informal discussion on subject matters brought before the council in advance of the formal presentation of any motion with respect thereto.

(Code 1996, § 2-12; Ord. No. 570, § 5)

**Sec. 2-58. Ordinances to be in writing; when motions to be in writing.**

All ordinances shall be in writing. Other motions shall be reduced to writing if requested by any councilmember.

(Code 1996, § 2-13; Ord. No. 570, § 6)

**Sec. 2-59. Recording of vote.**

"Yeas" and "nays" shall be taken and recorded in the minutes whenever required by statute or requested by any councilmember.

(Code 1996, § 2-14; Ord. No. 570, § 7)

State law reference—Recording of vote, Code of Ala. 1975, § 11-45-2.

**Sec. 2-60. Motions to table.**

It shall be in order to lay on the table a proposed amendment to a pending measure and such motion to table, if adopted, shall not carry with it or prejudice the original measure unless explicitly so stated in the motion.

(Code 1996, § 2-15; Ord. No. 570, § 8)

**Sec. 2-61. Actions not requiring second.**

Motions to reconsider do not require a second nor do appeals to the council from rulings by the chair on questions of order.

(Code 1996, § 2-16; Ord. No. 570, § 9)

**Sec. 2-62. Participation of chair.**

The chair may address the council, make a motion and discuss any other matter at issue without any requirement that he first relinquish the chair.

(Code 1996, § 2-17; Ord. No. 570, § 10)

**Sec. 2-63. Absence of president of council, president pro tempore or clerk.**

During the absence of the council president or during his inability to serve, the duties, responsibilities and powers of the council president, including those relating to his being the presiding officer of the council, shall devolve upon and be discharged by the president pro tempore of the council. During the absence or inability of the president pro tempore, the functions of such office shall be exercised by a councilmember appointed by the council, which appointment shall be entered upon the council minutes. During the absence or inability of the clerk to serve, the council shall appoint some other person to perform the duties of the clerk, which appointment shall be entered upon the council minutes.

(Code 1996, § 2-18; Ord. No. 570, § 11)

State law reference—Absence of council president, president pro tempore and clerk, Code of Ala. 1975, §§ 11-43-42, 11-43-100.

**Sec. 2-64. Rules of order adopted.**

The rules contained in "Robert's Rules of Order, Newly Revised" shall govern the council in all cases to which they are applicable and in which they are not inconsistent with the statutes of the state or with the provisions of this article.

(Code 1996, § 2-19; Ord. No. 570, § 12)

**Sec. 2-65. Consent agenda.**

(a) At the meeting of the members of the city council held prior to each regular meeting of the city council ("preliminary meeting"), any member of the city council may request that a resolution or other item, other than an ordinance, which is on the agenda for such regular meeting ("meeting") be placed on the consent agenda for the meeting. No resolution or other item shall be placed on the consent agenda unless it is discussed by the members of the city council attending the preliminary meeting.

(b) Any resolution or other item which a member of the city council requests be placed on the consent agenda for a meeting (singular, "matter"; plural, "matters") shall be placed on the consent agenda unless one or more members of the city

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council object, which objection may be made either during the preliminary meeting or during the meeting.

(c) As the first item on the agenda for each meeting, after the minutes of the prior meeting of the city council have been considered (unless the minutes have been placed on the consent agenda), the president of the city council, or other presiding member of the city council ("presiding officer"), shall announce the agenda item number of any matters on the agenda which have been assigned to the consent agenda or the presiding officer shall direct the city clerk to read from the agenda a brief description of each matter which has been assigned to the consent agenda.

(d) After the agenda number of each matter on the consent agenda has been read by the presiding officer or the city clerk has read a brief description of each matter on the consent agenda, the presiding officer shall ask if any member of the city council would like to have any of such matters discussed. If a member of the city council would like to have a matter on the consent agenda discussed, such matter shall be withdrawn from the consent agenda and it shall be discussed when it is reached on the agenda. If a member of the audience asks for an explanation of, or information about, a matter on the consent agenda, the presiding officer may give a brief explanation of such matter or may direct a member of the city's staff or another member of the city council to give a brief explanation of such matter, but it shall not be withdrawn from the consent agenda.

(e) The presiding officer shall then ask for a motion with respect to the matters on the consent agenda. All matters on the consent agenda shall be considered in the same motion. If a motion to adopt the matters on the consent agenda is made, seconded and approved by a majority of the members of the city council who are present at the meeting, all such matters shall be considered adopted and in full force and effect, just as they would have been had each such matter been considered and voted on separately and approved by a majority of the members of the city council who were present at the meeting.

(Code 1996, § 2-20.1; Ord. No. 1311, §§ 1—5, 5-26-1998; Ord. No. 1468, 4-9-2001)

Secs. 2-66—2-88. Reserved.

### ARTICLE III. OFFICERS AND EMPLOYEES

#### DIVISION 1. GENERALLY

##### Sec. 2-89. Surety bonds.

(a) *City clerk.* The bond required of the city clerk for the faithful performance of his duties and the safe custody of the funds of the city shall be an amount approved by the city council. Such bond shall be signed by good and sufficient sureties to be approved by the mayor. The premium for such bond shall be paid by the city from its general fund.

(b) *City treasurer.* The bond required of the city treasurer for the faithful performance of his duties and the safe custody of the funds of the city shall be an amount approved by the city council. Such bond shall be signed by good and sufficient sureties to be approved by the mayor. The premium for such bond shall be paid by the city from its general fund.

(Code 1996, § 2-3; Ord. No. 7; Ord. No. 8)

State law reference—Similar provisions, Code of Ala. 1975, §§ 11-43-104, 11-43-120.

##### Sec. 2-90. Assistant treasurer, office created; appointment; term of office; bond; compensation; duties.

(a) There is hereby created the office of assistant treasurer for the city. There shall be no more than two assistant treasurers.

(b) The assistant treasurers shall be appointed by the city council. The city council shall appoint one or two assistant treasurers, as the city council, from time to time, shall consider to be in the best interest of the city. The term of office of the assistant treasurer or assistant treasurers shall be coextensive with the term of office of the city council; provided, that either or both of the assistant treasurers may be removed at any time by vote of a majority of the members of the city council. During the absence or disability of the assistant treasurer, or both assistant treasurers if there are two assistant treasurers, the city coun-



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cil may designate some properly qualified person to perform the duties of the office of assistant treasurer.

(c) The assistant treasurer, or each of the assistant treasurers if there are two assistant treasurers, shall furnish a surety company bond in an amount approved by the city council for the faithful performance of his or their duties in the safe custody of the funds of the city. Such bond shall be signed by good and sufficient sureties to be approved by the mayor. The premium for such bond shall be paid by the city from its general fund.

(d) The assistant treasurer or assistant treasurers shall receive no salary or other compensation for performing the duties of the office of assistant treasurer.

(e) Except to the extent that it may be prohibited by the laws of the state, in the absence or disability of the treasurer or the vacancy of the office of treasurer, the assistant treasurer, if there is but one assistant treasurer, shall have the same duties and powers as those of the treasurer. If there are two assistant treasurers, the city council shall, by resolution, designate one of the assistant treasurers to have the same duties and powers as those of the treasurer. (Code 1996, § 2-3.1; Ord. No. 904, §§ 1-5, 6-10-1985; Ord. No. 944, 10-11-1988)

**Sec. 2-91. Indemnification of city officials, board members and employees.**

The city hereby indemnifies and agrees to hold harmless officials, board members and employees, and their successors, from and against all actions, causes of action, claims, demands, damages, losses and expenses of any kind, including court costs and attorneys fees, which may be asserted against, or suffered by, such officials, board members and employees arising out of, or in connection with the performance of, or failure to perform, their official duties for the city when acting within the general scope of their authority as such officials, board members and employees and within the general scope of authority as such officials, board members and employees and within the general scope of authority of the city, to the

extent that such actions, causes of action, claims, demands, damages, losses and expenses are not covered by insurance.

(Code 1996, § 2-3.2; Ord. No. 910, 10-15-1985)

**Secs. 2-92—2-110. Reserved.**

**DIVISION 2. CITY MANAGER**

**Sec. 2-111. Office created.**

There is hereby created the office of the city manager.

(Code 1996, § 2-21; Ord. No. 20, § 1)

State law reference—Creation of the office of city manager, Code of Ala. 1975, § 11-43-20.

**Sec. 2-112. Appointment and removal; acting city manager.**

(a) The city manager shall be appointed by the governing body. The term "governing body" shall be interpreted to include the mayor and the city council. The city manager may be removed by vote of two-thirds of the members of the governing body, following written notice of 60 days.

(b) During the absence or disability of the city manager, the governing body may designate some properly qualified person to perform the duties of the office of city manager.

(Code 1996, § 2-22; Ord. No. 20, § 2)

State law reference—Appointment, removal, absence or disability of city manager, Code of Ala. 1975, §§ 11-43-20, 11-43-21.

**Sec. 2-113. Powers and duties.**

(a) The city manager shall be the administrative head of the municipal government. As such, it shall be the duty of the city manager to see that all ordinances are enforced. It shall be his duty also to assume complete responsibility for directing the executive departments of the city, within the limits set by the law.

(b) Subject to the limitations imposed by law, the city manager shall have the power to appoint and remove all city employees and appointees.

(c) The city manager shall have the right and the duty to attend all meetings of the governing body, and he shall have the right to take part in

the discussions of such body, but without vote. The city manager shall be entitled to notice of all meetings, regular and special, of the governing body. He shall recommend to the governing body for adoption such measures as he may deem necessary or expedient.

(d) It shall be the duty of the city manager to make and execute all lawful contracts on behalf of the city as to matters within his jurisdiction, and to take care that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed. Pursuant to these ends, he shall call to the attention of the governing body all violations of contracts or franchises.

(e) The city manager shall act as the business manager for the city, under the direction of the governing body. He shall have supervision over all city property, and shall have charge of or supervision over the accounting work of the city.

(f) The city manager shall be the purchasing agent for the city, and shall approve all vouchers in payment of city purchases; provided, that all purchases involving the expenditure of more than \$100.00 in one transaction or for one purpose shall be first authorized or approved by the governing body. All purchases shall be subject to the limitations imposed by the city's budget.

(g) The city manager shall present to the governing body monthly reports covering the work of each department for which he is responsible, together with such other special reports as may be required. At the end of the fiscal year the city manager shall prepare and present to the governing body a written annual report summarizing the work of each department and including a statement of the financial condition of the city, with recommendations for the ensuing year and for subsequent years.

(h) Each month the city manager shall prepare and present to the governing body a statement showing the exact financial condition of the city as of the end of the preceding month, including a statement of current assets and liabilities and a summarized statement of income and expenditures, detailed as to funds and departments.

(i) The city manager shall prepare and present to the governing body at the end of each fiscal year a budget estimate of income and expenditures for the ensuing year, for the consideration of the governing body.

(j) The city manager shall prepare and issue orders requiring any person, firm or corporation who holds a franchise for the operation of a cable television system within the city to comply with the terms of his or its franchise agreement and Federal Communication Commission's Regulations, 47 CFR 76, whenever such person, firm or corporation has not complied with the terms of such franchise agreement or regulations.

(k) The city manager shall recommend to the council for adoption such measures as he may deem necessary or expedient.

(l) The city manager shall see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and, upon the knowledge of any violation thereof, to call the same to the attention of the city attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same.

(m) The city manager shall fix all salaries and compensations of municipal employees lawfully employed by him, subject, however, to supervision, approval or disapproval of the city council.

(n) The city manager shall perform the duties of the city clerk without additional compensation, when so directed by resolution of the city council, and when so acting he shall be charged with all of the duties, powers, responsibilities and penalties of the city clerk. When so acting his official acts may be in his name as city manager.  
(Code 1996, § 2-25; Ord. No. 20, § 5; Ord. No. 209; Ord. No. 1175, 10-24-1994)

*State law reference—Powers and duties of city manager generally, Code of Ala. 1975, § 11-43-21.*

#### **Sec. 2-114. Other powers and duties.**

The city manager shall exercise such other powers and shall perform such other duties as may be prescribed by law or by ordinance or resolution of the governing body.  
(Code 1996, § 2-26; Ord. No. 20, § 6)

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**Secs. 2-115—2-141. Reserved.**

**DIVISION 3. SOCIAL SECURITY**

**Sec. 2-142. Extension of social security to officials and employees.**

It is hereby declared to be the policy and purpose of the city to extend to the employees and officials thereof, not excluded by law or by this article and whether employed in connection with a governmental or proprietary function, the benefits of the system of Old Age and Survivor's Insurances authorized by the Federal Social Security Act and amendments thereto, including Public Law 734 of the 81st Congress. In pursuance of such policy and for that purpose, the city shall take such action as may be required by applicable state or federal laws or regulations. (Code 1996, § 14-26; Ord. No. 186, § 1)

**Sec. 2-143. Authority of mayor to execute agreements, etc.**

The mayor or other chief executive officer of the city is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state agency authorized to act to secure coverage of employees and officials as provided in section 2-142. (Code 1996, § 14-27; Ord. No. 186, § 2)

**Sec. 2-144. Withholding and payment to state or federal agency from salaries or wages.**

Withholdings from salaries or wages of employees and officials for the purpose provided in section 2-142 are hereby authorized to be made in the amounts and at such times as may be required by applicable laws or regulations and shall be paid over to the state or federal agency designated by such laws or regulations to receive such amounts. (Code 1996, § 14-28; Ord. No. 186, § 3)

**Sec. 2-145. Payment of appropriations required by state or federal laws.**

There shall be appropriated from available funds such amounts at such times as may be

required by applicable state or federal laws or regulations for employer's contributions, which shall be paid over to the state agency designated by such laws or regulations to receive such amounts.

(Code 1996, § 14-29; Ord. No. 186, § 4)

**Sec. 2-146. Records and reports required by state or federal laws or regulations.**

The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations.

(Code 1996, § 14-30; Ord. No. 186, § 5)

**Sec. 2-147. Persons not eligible to participate.**

There is hereby excluded from this article any authority to make any agreement with respect to any position, or any employee or official, compensation for which is on a fee basis, or any position, or any employee or official not authorized to be covered by applicable state or federal laws or regulations.

(Code 1996, § 14-31; Ord. No. 186, § 7)

**Secs. 2-148—2-177. Reserved.**

**ARTICLE IV. FINANCE**

**Secs. 2-178—2-207. Reserved.**

**ARTICLE V. BOARDS AND COMMISSIONS**

**DIVISION 1. GENERALLY**

**Secs. 2-208—2-237. Reserved.**

**DIVISION 2. BOARD OF EDUCATION\***

**Sec. 2-238. Created; membership; appointment of members; powers and duties.**

A city board of education is hereby created and constituted, to be known and designated as the

\*State law reference—City board of education, Code of Ala. 1975, § 16-11-1 et seq.

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"City Board of Education of Mountain Brook, Alabama," to consist of five members to be appointed by the city council, and to have all of the duties, powers and authority provided by state law for city boards of education.  
(Code 1996, § 2-32; Ord. No. 298)

**Secs. 2-239—2-269. Reserved.**

## DIVISION 3. LIBRARY BOARD

**Sec. 2-270. Created.**

There is hereby created and established a library board of the city, to be known and designated as the Mountain Brook Library Board.  
(Code 1996, § 2-33; Ord. No. 378, § 1)

State law reference—Power of city to create library board, Code of Ala. 1975, § 11-90-2.

**Sec. 2-271. Powers and duties.**

The library board shall have all of the powers and duties as prescribed by Code of Ala. 1975, § 11-90-3.

(Code 1996, § 2-34; Ord. No. 378, § 2)

**Sec. 2-272. Membership; terms of office and compensation of members.**

The library board shall consist of five members. Such members shall have terms of four years. Such members shall serve without compensation.  
(Code 1996, § 2-35; Ord. No. 378, § 3)

State law reference—Membership and terms of office, Code of Ala. 1975, § 11-90-2.

**Secs. 2-273—2-292. Reserved.**

## DIVISION 4. TREE COMMISSION

**Sec. 2-293. Established; membership; terms.**

There is hereby established a tree commission, which shall be known as Tree Commission of the City of Mountain Brook ("commission"). The commission shall have nine members, who shall be appointed by the city council. The terms of the members of the commission shall be for a period of three years. Each member shall serve until the

expiration of his term and thereafter until his successor has been appointed by the city council.  
(Code 1996, § 2-51; Ord. No. 1177, § 1, 11-28-1994; Ord. No. 1351, § 1, 3-8-1999)

**Sec. 2-294. Meetings.**

(a) The commission shall:

- (1) Elect from among themselves a chairman and a vice-chairman to serve in the absence of the chairman and such other officers, if any, which the members shall consider necessary or appropriate;
- (2) Select a time for regularly scheduled public meetings;
- (3) Adopt such rules and regulations for the conduct of its meetings and the operation of the commission as the members consider necessary and appropriate; and
- (4) Conduct such other business with respect to the organization and operation of the commission which its members consider appropriate.

(b) In addition to its regularly scheduled meetings, the commission's rules and regulations shall provide that special meetings of the commission may be called by the chairman of the commission or by the president of the city council upon not less than three days' prior notice to the members of the commission of the time, place and purpose of such special meeting.  
(Code 1996, § 2-52; Ord. No. 1177, § 2, 11-28-1994)

**Sec. 2-295. Duties.**

The commission shall:

- (1) Make recommendations to the city council concerning the needs of the city with respect to the planting of trees in public parks and on public rights-of-way and public grounds;
- (2) Recommend the types of trees to be planted on such public property;
- (3) Assist the city council by providing information for the protection, maintenance, removal and planting of trees on such public property;

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- (4) Assist the city council in the preparation of a master tree plan by making recommendations with respect to the location and species of trees to be planted or maintained on such public property;
  - (5) Identify trees that are considered unwanted weed trees, and recommend the removal of dead, dying, diseased or insect-infected trees on public property; and
  - (6) Make studies and recommendations to the city council on other matters concerning trees in the city.
- (Code 1996, § 2-53; Ord. No. 1177, § 3, 11-28-1994)

**Secs. 2-296—2-323. Reserved.**

**ARTICLE VI. HANDICAP  
DISCRIMINATION GRIEVANCE  
PROCEDURE**

**Sec. 2-324. Procedure adopted; intent.**

In the implementation of 31 CFR 51.55(d) of the Federal Rehabilitation Act, the city does hereby adopt the grievance procedure outlined in this article to ensure that prompt and equitable review is accomplished concerning complaints alleging handicapped discrimination. It is the intent of this article to incorporate appropriate due process standards, and to provide procedures for the local resolution of handicapped discrimination complaints filed by any member of the community, whether an employee or not.

(Code 1996, § 2-41; Ord. No. 891, § 1, 11-13-1984)

**Sec. 2-325. Compliance with Federal Rehabilitation Act.**

It shall be the policy of the city to comply with the provisions of 31 CFR 51.55 of the Federal Rehabilitation Act, which relates to discrimination on the basis of handicap.

(Code 1996, § 2-42; Ord. No. 891, § 4, 11-13-1984)

**Sec. 2-326. Policy regarding discrimination in city programs, employment, etc.**

The city shall not discriminate on the basis of handicapped status in admissions to or access to, or treatment or employment in, its programs and activities.

(Code 1996, § 2-43; Ord. No. 891, § 5, 11-13-1984)

**Sec. 2-327. Procedure for filing and determining complaints.**

Any person having a complaint concerning handicapped discrimination shall follow the following procedure:

- (1) The complaint shall be reduced to writing by the person making the complaint on the form provided by the city clerk, and shall be filed in the office of the city clerk no later than five days after occurrence of incident. The city clerk shall have 45 days from receipt of the complaint within which to file, after investigation, an answer with the person initially filing the complaint.
- (2) If the complainant is dissatisfied with the answer of the city clerk, said person may appeal the decision of the city clerk to the city manager. This appeal must be filed with the city clerk within 30 days from receipt of the decision of the city clerk.
- (3) The city manager shall have 30 days within which to investigate and make a decision in writing to the complainant. This 30-day period shall be from the date the appeal was filed. A written decision shall be made by the city manager to the complainant within the 30-day period.
- (4) If the complainant is dissatisfied with the decision of the city manager, the complainant shall, within 15 days, file an appeal with the city manager, which said appeal shall be to the city council. The person filing the complaint shall be given the opportunity to explain his position to the council prior to the council's decision.

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(5) The city council shall have 30 days from receipt of the appeal within which to render its decision, which decision shall be final and binding.  
(Code 1996, § 2-44; Ord. No. 891, § 2, 11-13-1984)

**Sec. 2-328. Responsibilities of city clerk.**

(a) The city does hereby designate the city clerk to be responsible to coordinate efforts to comply with the provisions of 31 CFR 51.55 of the Federal Rehabilitation Act.

(b) The city clerk shall keep a record of all grievances concerning handicapped discrimination, and said records shall be open to the public and all interested parties for inspection.  
(Code 1996, § 2-46; Ord. No. 891, §§ 3, 6, 11-13-1984)

**Secs. 2-329—2-359. Reserved.****ARTICLE VII. LOST OR ABANDONED PROPERTY\*****Sec. 2-360. City manager designated custodian.**

The city manager is hereby designated as custodian of all captured, stolen, lost or abandoned property or vehicles.  
(Code 1996, § 11-1; Ord. No. 62, § 1)

**Sec. 2-361. Removal to depository by police officer.**

Whenever any police officer of the city shall find or seize any property, which there is probable cause to believe is lost, stolen or abandoned, it shall be the duty of such officer to remove or cause to be removed such property to the depository designated by the city manager.  
(Code 1996, § 11-2; Ord. No. 62, § 2; Ord. No. 600)

\*State law reference—Authorizing city to take up, store and dispose of abandoned and stolen property, Code of Ala. 1975, § 11-47-116.

**Sec. 2-362. Delivery of captured property to city manager.**

The police officers of the city shall deliver to the city manager any property captured by them.  
(Code 1996, § 11-3; Ord. No. 62, § 3)

**Sec. 2-363. Return to rightful owner.**

The city manager shall deliver any property or vehicle captured, stolen, lost or abandoned to the rightful owner upon demand, upon payment of any expense for removal, storage or advertisement, at any time before sale of such property or vehicle as provided by this article, unless such property or vehicle is subject to condemnation or sale under the laws of the state.  
(Code 1996, § 11-4; Ord. No. 62, § 4)

**Sec. 2-364. Sale of unclaimed property.**

(a) *Notice prior to sale.* If any property or vehicle captured, stolen, lost or abandoned is not subject to condemnation or sale under the laws of the state and is not claimed by the rightful owner, after three months such property or vehicle shall be sold by the city manager at public outcry to the highest bidder for cash, after notice of the time, place and terms of sale, together with a brief but accurate description of such property or vehicle, shall have been advertised for 20 days by posting in three public places in the city. Such sale shall be conducted in accordance with the provisions of Code of Ala. 1975, § 11-47-116.

(b) *Claim by rightful owner against proceeds.* The money received at any public sale pursuant to this section shall be immediately paid into the treasury of the city. Upon demand made by the erstwhile owner of such property or vehicle at any time within six months from the date of receipt of such money in the city treasury, the excess of such money above the reasonable costs of removal, storage, maintenance and advertisement shall be paid to such owner.  
(Code 1996, §§ 11-5, 11-6; Ord. No. 62, §§ 5, 6; Ord. No. 813)

## Chapter 121

## SIGNS\*

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\*State law reference—Authorizing city to regulate signs, awnings, etc., that overhang streets, Code of Ala. 1975, § 11-49-2.

## SIGNS

§ 121-3

## ARTICLE I. IN GENERAL

## Sec. 121-1. Intent and purpose.

It is the purpose of this chapter to promote the public health, safety and welfare of the residents of the city so that signs do not become a hazard or a nuisance, and, therefore, to establish regulations for the control of all signs designed or intended to be seen by, or attract the attention of, the public, which may be erected, displayed, maintained, or altered in the city. Further, it is the intent of this chapter:

- (1) To allow expression of commercial and noncommercial speech in a reasonable manner consistent with the rights of others;
- (2) To provide a pleasing overall environmental setting and good community appearance deemed vital to the continued economic attractiveness of the city;
- (3) To enhance a productive, enterprising, responsible community atmosphere through the use of effective visual communication; and
- (4) To protect and enhance the value of properties, and therefore, to have signs appropriate to the planned character and development of each area of the city.

(Code 1996, § 17-1; Ord. No. 1322, § I, 8-10-1998)

## Sec. 121-2. Compliance with chapter provisions.

No sign shall be erected, displayed, maintained, or altered in the city unless it is in compliance with this chapter.

- (1) *Signs as accessory uses only.* Signs shall be permitted only as accessory uses to buildings or structures, with the exception of construction signs for property under development and real estate signs.
- (2) *Permit required.* It shall be unlawful for any person to erect, display, materially alter, or relocate any sign unless such sign is in compliance with this chapter, and a permit for such sign has been issued by the building inspections superintendent,

and the permit fee required by this chapter has been paid, except for any sign for which a permit is not required under this chapter.

- (3) *Design review required.* It shall be unlawful for the building inspections superintendent to issue a sign permit until satisfactory completion of the design review process as required under this chapter.
- (4) *Maintenance.* The owner of any sign shall maintain same, together with all sign supports, braces, anchors, and messages, in good repair, in a safe manner, and in a permitted location, all in accordance with this chapter.
- (5) *Required signs.* The street address of each of the premises in the city shall be displayed in a legible manner in a location visible from the public right-of-way.  
(Code 1996, § 17-2; Ord. No. 1322, § II, 8-10-1998)

## Sec. 121-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Authorized agent* means an individual duly authorized by the owner of a development site to apply for a sign permit, approval of a master sign plan or other form of official action by the city with regard to any sign on the property. An authorized agent, if not an attorney, shall have written authorization from all owners of the development site. Only an individual may be an authorized agent.

*Awning sign* means a sign that is painted on, applied to, or otherwise is a part of a fabric or other nonstructural awning.

*Banner* means a sign, not otherwise classified as a temporary sign, made of cloth, canvas, plastic sheeting or any other flexible material, not rigidly attached to a building or the ground through a permanent support structure.

*Building* means a structure having a roof supported by columns or walls.



*Bulletin board* means a sign, placed on the premises of any school, public agency, church or other religious organization, charitable organization, or institutional organization, consisting of changeable copy boards or panels for the posting of notices.

*Commercial message* means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

*Community event sign* means a sign, as authorized by the city council, indicating an event or activity conducted by a person or an educational, civic, or charitable organization, and having a public or community service-related purpose.

*Construction sign* means a sign pertaining only to the construction, alteration, rehabilitation or remodeling of buildings, identifying only those parties involved in construction on the premises and future activity for which the construction is intended.

*Development site* means one or more parcels of land unified under a single development plan, which constitutes the entire development shown on a site plan or subdivision plat, including all land needed for landscaping, drainage facilities, parking, internal access roads, driveways, or other physical design features needed to serve the proposed development.

*Directional sign* means a sign, other than an official sign, not displaying any commercial message, designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which the public may be directed.

*Directory sign* means a sign listing only the names and addresses of tenants or occupants of, and the name of, a permitted multiple occupancy commercial building or group of buildings.

*Display area, aggregate*, means the total display area of all signs permitted on a lot, premises, or development site.

*Display area, awning*, means the display area of the sign projected horizontally to a vertical plane.

*Display area, generally*, means the area that can be enclosed or measured by the smallest rectangle that will encompass the entire sign face; excluding the frame, posts, uprights, braces or other structural members that support it.

*Display area, multiple-face sign*, means a sign that has multiple faces and only one face may be viewed from a single location on a public right-of-way, the largest of these faces shall be considered its display area. Where a sign has two or more faces that may be viewed from a single location, the display area of all such faces shall be the total area of all such faces.

*Door sign* means a sign attached to, painted on, or etched into a door. A sign in a window that is part of a door is a door sign rather than a window sign.

*Facade* means the side of a building below the eaves or top of the parapet wall.

*Facade sign* means a sign attached to, or painted directly upon, a facade.

*Gasoline service station price sign* means a sign placed at a gasoline service station indicating only grades and prices of gasoline offered for sale.

*General business sign* means a sign advertising or identifying only the premises whereon the sign is located, which may include the name, symbol, or logo of the owner, occupant, manager, business, institution, or building; the address; the type of business, profession, services, or activity conducted on the premises; and descriptive information about the products and services offered thereon.

*Ground sign* means a sign supported by uprights, posts, or bases affixed in or upon the ground and not attached to any part of a building.

*Hazard sign* means a sign warning of construction, excavation, or similar hazards, and of such size and placement that is in accord with the provisions of the Manual on Uniform Traffic Control Devices for Streets and Highways, 1988 edition; published by the U.S. Department of Transportation, Federal Highway Administration.

*Identification marker* means a sign marking an entrance to, and including the name of, a residen-

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tial subdivision, shopping center, office park or institutional use, and containing no other content.

*Incidental sign* means a sign, other than an official sign, providing information or direction for the convenience and necessity of the public.

*Internal sign* means a sign not intended to be viewed from, and placed so as not to be visible from, a public right-of-way.

*Nameplate* means a nonilluminated sign identifying only the name, occupation, or profession of the occupant of the premises upon which the sign is located.

*Noncommercial message* means any wording or other display other than a commercial message.

*Official flag* means any official federal, state, or local government flag or emblem.

*Official sign* means any official federal, state, or local government traffic, directional, or informational sign placed by a duly authorized public official, or notice issued by any court, person, or officer in performance of a public duty; an official historical marker; any sign erected by a federal, state, or local government agency for identification purposes at any office, institutional, recreational, or other publicly owned or leased site.

✓ *Political sign* means a sign containing a non-commercial message regarding a public issue, promoting a political cause, or supporting the campaign of an individual for public office.

*Premises* means land and building or part of a building having a separate street address.

*Product sign* means a sign directly attached to a licensed or otherwise authorized vending machine, gasoline pump, or similar apparatus that directs attention only to products or services dispensed therefrom.

*Projecting sign* means a sign placed above the ground, permanently affixed at more or less a right angle to the exterior facade of the building to which it is attached.

*Real estate sign* means a sign indicating that the property on which the sign is located is for

sale, lease, or development, to announce an open house event in connection with the sale or lease of a building, or to identify a model home.

*Residential identification sign* means an identification sign for a residence, containing no commercial message, located on the property identified.

*Roof sign* means a sign mounted on a roof, above the eaves or above the top of a parapet wall of a building, but not extending above the highest point of its supporting roof or of another architectural element that serves to block a rear view of the sign.

*Sandwich board* means a sign, having two faces angled toward one another vertically and attached to one another at the top to form a structural "A" frame, placed upon the ground and not otherwise supported by uprights, posts, or bases.

*Security sign* means a sign indicating only the logo, name, and contact telephone number of the company providing security services to the property upon which it is located.

*Shopping center* means a group of commercial establishments on one or more contiguous parcels of land having shared access and/or off-street customer parking.

*Sign* means a lettered, numbered, symbolic, pictorial, or illuminated visual display that is designed to identify, announce, direct, or inform.

*Sign face* means the area of the smallest rectangle within which all letters, logos, symbols, or other elements displayed on the sign can be enclosed.

*Sign height* means the vertical distance measured from the lowest finished grade elevation directly beneath the center of the sign to the highest elevation of the sign.

*Structure* means anything built or constructed that requires a permanent location.

*Suspended sign* means a sign attached to, and supported by, the underside of a structure.

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*Temporary sign* means a sign, other than a sandwich board, not permanently and rigidly affixed to the ground or to a building.

*Utility sign* means a sign showing the location of a public telephone, or sign placed by a regulated public utility to indicate location of its facilities, and including no commercial message.

*Village* means any or all of the Villages of Mountain Brook as they are defined in section 19-24-6.1 of the zoning ordinance.

*Villages design review committee* means the design review committee established under section 19-24-7 of the zoning ordinance.

*Window sign* means a sign painted onto the inside or outside of a window, or sign attached to the outside of, or displayed in front of, a window. (Code 1996, § 17-3; Ord. No. 1322, § III, 8-10-1998; Ord. No. 1392, 12-13-1999)

#### Sec. 121-4. Conflict.

Whenever this chapter may require or impose more restrictive standards than are required in or under any statute or other ordinance, the provisions of this chapter shall govern. Whenever the provisions of any statute or other ordinance require more restrictive standards than are required by this chapter, provisions of such statute or ordinance shall govern. This chapter shall not lower the restrictions imposed by plats, deeds, or private contracts, if they are more restrictive than the provisions of this chapter. (Code 1996, § 17-87; Ord. No. 1322, § XII, 8-10-1998)

#### Sec. 121-5. Penalties.

Each and every violation of the provisions of this chapter shall be punishable by a fine not exceeding \$500.00, at the discretion of the court trying the case. Each and every day the violation continues shall be construed as a separate offense. (Code 1996, § 17-45; Ord. No. 1322, § X, 8-10-1998)

#### Sec. 121-6. Requirements applicable to all signs.

(a) *Building code.* All signs must comply with the building code, and all other applicable codes and ordinances of the city, as such codes and ordinances are in effect from time to time.

(b) *Electrical code.* Any sign that may require electrical wiring or connections shall comply with the electrical code, and all other applicable codes and ordinances of the city, as such codes and ordinances are in effect from time to time, and shall be submitted to the electrical inspector for an appropriate permit. The electrical inspector shall examine the plans and specifications respecting all wiring and connections to determine if such wiring, etc. complies with the electrical code, and shall issue such permit only if the plans and specifications for such sign comply with such codes and ordinances or shall disapprove the application if they do not comply with such codes and ordinances. Such action of the electrical inspector shall be taken prior to submission of the application to the building inspections superintendent for a sign permit. All electrical devices used in signs must be inspected by Underwriters Laboratories (i.e., UL Listed).

(c) *Height.* No sign shall exceed the height limit established in chapter 129 for the district in which it is located.

(d) *Obstruction to passage.* No sign shall be erected, displayed, or maintained so as to obstruct or interfere with any fire escape, any required exit way, window, door opening or any other means of egress, or of any opening required for ventilation required by the building code and all other provisions of this Code.

(e) *Signs in public rights-of-way.* No sign, other than an official sign, shall be placed in a public right-of-way, or shall project into a public right-of-way, or shall be attached to private property placed in a public right-of-way, except as expressly provided in this chapter. Any sign so placed or located except in conformance with this chapter shall be forfeited to the public and subject to confiscation and destruction. In addition to other remedies, the city shall have the right to

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recover from the owner of such sign or the person placing such sign the full costs of removal and disposal of such sign.

(f) *Illumination, lighting, and glare.* Signs may be illuminated, unless expressly prohibited in the district in which the sign is located, through the use of direct or indirect illumination, backlighting, internal illumination, or tube illumination. Any device that illuminates a sign shall be placed and shielded so that the direct light therefrom, or from the sign itself, shall not cause direct glare into the windows of any adjacent property or be cast into the eyes of any passing motorist. (Code 1996, § 17-4; Ord. No. 1322, § IV, 8-10-1998)

#### Sec. 121-7. Prohibited and illegal signs.

In addition to any sign not specifically permitted by these regulations, the following are specifically prohibited in the city:

- (1) Any sign visible from a public right-of-way that simulates or imitates in color, lettering, content, or design any traffic sign or signal, or that makes use of words, symbols, or characters in a manner that is likely to interfere with, mislead, or confuse pedestrians or motorists, or otherwise presents or implies the need or requirement of stopping, caution, the existence of danger, or that for any reason could be confused with any sign displayed or authorized by public authority;
- (2) Any sign or device designed to attract the attention of the public, through motion of any kind, including those which may be set in motion by wind;
- (3) Any sign containing or consisting of any moving, rotating, flashing, pulsating, or otherwise animated light or component, except for barber poles;
- (4) Any sign at any street intersection that would obstruct free and clear vision of motorists, or that would obstruct or interfere with a motorist's view of any authorized traffic signal or sign;
- (5) Any sign painted on, or attached to, a utility pole or similar structure, or painted on or attached to a tree, rock or other natural feature;
- (6) Any sign erected, painted, enlarged, or structurally altered in violation of any provision of this chapter;
- (7) Any sign determined by the building inspections superintendent to be dangerous because it is not securely affixed to the ground, or otherwise affixed in a safe, secure, and permanent manner to a building or other approved supporting structure;
- (8) Any sign that has deteriorated or been damaged to such extent that the cost of reconstruction or restoration is deemed by the building inspections superintendent to be in excess of 50 percent of its depreciated value, exclusive of foundations; and
- (9) Any sign identifying a business or other use no longer occupying the premises upon which it is displayed.

(Code 1996, § 17-6; Ord. No. 1322, § VI, 8-10-1998)

State law reference—Signs imitating traffic signals, Code of Ala. 1975, § 32-5A-36.

#### Sec. 121-8. Regulations for temporary signs.

It shall be unlawful to erect, display or permit the display of, or maintain any temporary sign unless such sign is expressly permitted by this chapter, subject to all of the limitations and provisions stated herein. Should a temporary sign exceed the permitted display area, it shall be considered a general business sign and shall be subject to every requirement of this chapter governing such signs. Permitted temporary signs are limited to the following types and conditions:

- (1) *Banner.* Each new business may have one temporary banner, placed as a facade sign or a window sign in accord with all other applicable requirements of this chapter, for a period of not more than 45 days, or until a permanent sign is installed, whichever time period is shorter. Otherwise, only as authorized by the city council.

(2) *Community event sign.* Only as authorized by the city council.

(3) *Construction sign.* Only on development sites for which a building permit has been issued. For all sites except individual residential lots, not to exceed two signs, aggregate display area not to exceed 24 square feet and height not to exceed six feet. For individual residential lots, not to exceed one sign, display area not to exceed six square feet and height not to exceed three feet. Removal of all construction signs shall be required prior to issuance of a certificate of occupancy. All building permits shall include these conditions.

(4) *Hazard sign.* Shall be removed immediately when the hazard no longer exists.

✓ (5) *Political sign.* Not to exceed six square feet per sign in residential districts and 24 square feet per sign in nonresidential districts; but in no event may political signs be displayed on a public right-of-way or publicly owned or leased site.

(6) *Real estate sign.* May only be posted on the property that is for sale, rent, or lease, subject to the following conditions:

a. For sale/for lease signs shall not exceed one sign per street fronting the property, not including alleys, with the display area not to exceed six square feet each in residential districts and the villages, or 24 square feet each in all other districts.

b. Model home signs shall be permitted only within a new subdivision; with the aggregate display area within the subdivision not to exceed 12 square feet.

c. Open house signs shall be permitted only as part of a for sale/for lease sign, with no additional display area.

(7) *Security sign.* Not to exceed one for each lot line that abuts a public right-of-way, display area not to exceed one square foot each.

(8) *Temporary window sign.* Only as applied to the inside of the window for sales or other special events.

(Code 1996, § 17-7; Ord. No. 1322, § VII, 8-10-1998)

#### Sec. 121-9. Regulations for incidental signs.

It shall be unlawful to erect, display or permit the display of, or maintain any incidental sign unless such sign is expressly permitted by this chapter, subject to all of the limitations and provisions stated herein. Should an incidental sign exceed the permitted display area, it shall be considered a general business sign and shall be subject to every requirement of this chapter governing such signs. Permitted incidental signs are limited to the following types and conditions:

(1) Directional signs, the display area of which is not to exceed two square feet each, with the aggregate display area per development site not to exceed 40 square feet, except in the villages, where the aggregate display area shall not exceed 20 square feet;

(2) Gasoline service station price signs, not to exceed one per service station, not to exceed five feet in height or three feet in width, and not to be placed in a location that will obstruct the view of a motorist or a pedestrian leaving or passing the service station;

(3) Internal signs;

(4) Nameplates, the display area of which is not to exceed two square feet per business;

(5) Official flags or official signs;

(6) Product signs;

(7) Residential identification signs, not to exceed one per residence, with a display area not to exceed one square foot;

(8) Identification markers. A single ground sign, the display area of which is not to exceed 48 square feet and subject to all other applicable requirements of this chapter regarding ground signs, may be permitted at each entrance from a public

**Section 17-5-1****Short title.**

This chapter shall be known and may be cited as the "Fair Campaign Practices Act."

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §1; §17-22A-1; amended and renumbered by Act 2006-570, p. 1331, §23.)*

**Section 17-5-2****Definitions.**

(a) For purposes of this chapter, the following terms shall have the following meanings:

(1) CANDIDATE. An individual who has done any of the following:

a. Taken the action necessary under the laws of the state to qualify himself or herself for nomination or for election to any state office or local office or in the case of an independent seeking ballot access, on the date when he or she files a petition with the judge of probate in the case of county offices, with the appropriate qualifying municipal official in the case of municipal offices, or the Secretary of State in all other cases.

b. Received contributions or made expenditures, or given his or her consent for any other person or persons to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to any state office or local office. Notwithstanding the foregoing, no person shall be considered a candidate within the meaning of this subdivision until the time that he or she has either received contributions or made expenditures as provided herein in the following amounts:

1. Twenty-five thousand dollars (\$25,000) or more, with a view toward bringing about nomination or election to any state office other than one filled by election of the registered voters of any circuit or district within the state.

2. Five thousand dollars (\$5,000) or more, with a view toward bringing about nomination or election to any state office, excluding legislative office, filled by election of the registered voters of any circuit or district.

3. Ten thousand dollars (\$10,000) or more, with a view toward bringing about nomination or election to the Alabama Senate and five thousand dollars (\$5,000) or more, with a view toward bringing about nomination or election to the Alabama House of Representatives.

4. One thousand dollars (\$1,000) or more, with a view toward bringing about nomination or election to any local office.

(2) CONTRIBUTION.

a. Any of the following shall be considered a contribution:

1. A gift, subscription, loan, advance, deposit of money or anything of value, a payment, a forgiveness of a loan, or payment of a third party, made for the purpose of influencing the result of an election.

2. A contract or agreement to make a gift, subscription, loan, advance, or deposit of money or anything of value for the purpose of influencing the result of an election.

3. Any transfer of anything of value received by a political committee from another political committee, political party, or other source.

4. The payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate, political committee, or political party without payment of full and adequate compensation by the candidate, political committee, or political party. Provided, however, that the payment of compensation by a corporation for the purpose of establishing, administering, or soliciting voluntary contributions to a separate, segregated fund as permitted by Section 10-1-2, shall not constitute a contribution.

b. The term "contribution" does not include:

1. The value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee.

2. The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual to a candidate or political committee in rendering voluntary personal services on the individual's residential or business premises for election-related activities.

3. The sale of any food or beverage by a vendor for use in an election campaign at a charge to a candidate or political committee less than the normal comparable charge, if the charge to the political committee for use in an election campaign is at least equal to the cost of the food or beverage to the vendor.

4. Any unreimbursed payment for travel expenses made by an individual who, on his or her own behalf, volunteers personal services to a candidate or political committee.

5. The payment by a state or local committee of a political party of the cost of preparation, display, or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office for which an election is held in the state, except that this subparagraph shall not apply in the case of costs incurred by the committee with respect to a display of the listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising.

6. The value or cost of polling data and voter preference data and information if provided to a candidate or political committee, unless the information was compiled with the advance knowledge of and approval of the candidate or the political committee.

(3) ELECTION. Unless otherwise specified, any general, special, primary, or runoff election, or any convention or caucus of a political party held to nominate a candidate, or any election at which a constitutional amendment or other proposition is submitted to the popular vote.

(4) EXPENDITURE.

a. The following shall be considered expenditures:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the result of an election.

2. A contract or agreement to make any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, for the purpose of influencing the result of an election.

3. The transfer, gift, or contribution of funds of a political committee to another political committee.

b. The term "expenditure" does not include:

1. Any news story, commentary, or editorial prepared by and distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by any political party or political committee.
2. Nonpartisan activity designed to encourage individuals to register to vote, or to vote.
3. Any communication by any membership organization to its members or by a corporation to its stockholders and employees if the membership organization or corporation is not organized primarily for the purpose of influencing the result of an election.
4. The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential or business premises for election-related activities.
5. Any unreimbursed payment for travel expenses made by an individual who, on his or her own behalf, volunteers personal services to a candidate or political committee.
6. Any communication by any person which is not made for the purposes of influencing the result of an election.
7. The payment by a state or local committee of a political party of the cost of preparation, display, or mailing or other distribution incurred by the committee with respect to a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office for which an election is held in the state, except that this subparagraph shall not apply in the case of costs incurred by the committee with respect to a display of the listing made on broadcasting stations, or in newspapers, magazines, or other similar types of general public political advertising.

(5) **IDENTIFICATION.** The full name and complete address.

(6) **LOAN.** A transfer of money, property, or anything of value in consideration of a promise or obligation, conditional or not, to repay in whole or part.

(7) **LOCAL OFFICE.** Any office under the constitution and laws of the state, except circuit, district, or legislative offices, filled by election of the registered voters of a single county or municipality, or by the voters of a division contained within a county or municipality.

(8) **PERSON.** An individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(9) **PERSONAL AND LEGISLATIVE LIVING EXPENSES.** Household supplies, personal clothing, tuition payments, mortgage, rent, or utility payments for a personal residence; admission to an entertainment event or fees for a country club or social club, unless tied to a specific campaign event or functions involving constituents; and any other expense, excluding food and beverages, that would exist irrespective of the candidate's campaign or duties as a legislator. Personal and legislative living expenses shall not include expenses for food, beverages, travel, or communications incurred by the legislator in the performance of the office held.

(10) **POLITICAL ACTION COMMITTEE.** Any political action committee, club, association, political party, or other group of one or more persons which receives or anticipates receiving contributions or makes or anticipates making expenditures to or on behalf of any elected official, proposition, candidate, principal campaign committee or other political action committee. For the purposes of this chapter, an individual who makes a personal political contribution shall not be considered a political action committee.



(11) **PRINCIPAL CAMPAIGN COMMITTEE.** The principal campaign committee designated by a candidate under Section 17-5-4. A political action committee established primarily to benefit an individual candidate or an individual elected official shall be considered a principal campaign committee for purposes of this chapter.

(12) **PROPOSITION.** Any proposal for submission to the general public for its approval or rejection, including proposed as well as qualified ballot questions.

(13) **PUBLIC OFFICIAL.** Any person elected to public office, whether or not that person has taken office, by the vote of the people at the state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice chairs or the equivalent offices of each state political party as defined in Section 17-13-40.

(14) **STATE.** The State of Alabama.

(15) **STATE OFFICE.** All offices under the constitution and laws of the state filled by election of the registered voters of the state or of any circuit or district and shall include legislative offices.

(b) The words and terms used in this chapter shall have the same meanings respectively ascribed to them in Section 36-25-1.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §2; Acts 1997, No. 97-651, p. 1217, §1; §17-22A-2; amended and renumbered by Act 2006-570, p. 1331, §24.)*

### **Section 17-5-3**

#### **Political action committees; officers; accounting and reporting.**

(a) Every political action committee shall have a chair and a treasurer.

(b) All funds of a political action committee shall be segregated from, and shall not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) It shall be the duty of the treasurer of a political action committee to keep a detailed, exact account of:

(1) All contributions made to or for such committee.

(2) All expenditures made by or on behalf of such committee.

(3) The identification of every person to whom an expenditure is made, the date and amount thereof, and the name of each candidate on whose behalf such expenditure was made or a designation of the election proposition the result of which the political action committee will attempt to influence by making expenditures or receiving contributions.

(d) It shall be the duty of the treasurer to obtain and keep a receipted bill or cancelled check, stating the particulars for every expenditure made by or on behalf of a political action committee greater than one hundred dollars (\$100), and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person during a calendar year is greater than one hundred dollars (\$100). Provided, however, the treasurer of a political action committee shall not be required under this chapter to report any expenditure not related to political contributions or expenditures or made as an administrative expense. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for a period of two years from the date of any such expenditure.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §3; §17-22A-3; amended and renumbered by Act 2006-570, p. 1331, §24.)*

#### **Section 17-5-4**

##### **Filing statement to show principal campaign committee; duties and procedures.**

Within five days after any person becomes a candidate for office, such person shall file with the Secretary of State or judge of probate, as provided in Section 17-5-9, a statement showing the name of not less than two nor more than five persons elected to serve as the principal campaign committee for such candidate, together with a written acceptance or consent by such committee, but any candidate may declare himself or herself as the person chosen to serve as the principal campaign committee, in which case such candidate shall perform the duties of chair and treasurer of such committee prescribed by this chapter. If any vacancies be created by death or resignation or any other cause, such candidate may fill such vacancy, or the remaining members shall discharge and complete the duties required of such committee as if such vacancy had not been created. The principal campaign committee, or its treasurer, shall have exclusive custody of all moneys contributed, donated, subscribed or in any manner furnished to or for the candidate represented by such committee, and shall account for and disburse the same. No candidate shall expend any money in aid of his or her nomination or election except by contributing to the principal campaign committee designated by the candidate.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §4; §17-22A-4; amended and renumbered by Act 2006-570, p. 1331, §24.)*

#### **Section 17-5-5**

##### **Statement of organization; notice of termination or dissolution.**

(a) Each political action committee which anticipates either receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding one thousand dollars (\$1,000) shall file with the Secretary of State or the judge of probate as herein provided in Section 17-5-9, a statement of organization, within 10 days after its organization or, if later within 10 days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in an aggregate amount in excess of one thousand dollars (\$1,000).

(b) The statement of organization shall include:

(1) The name and complete address of the committee.

(2) The identification of affiliated or connected organizations, if any.

(3) The purposes of the committee.

(4) The identification of the chair and treasurer.

(5) The identification of principal officers, including members of any finance committee.

(6) A description of the constitutional amendments or other propositions, if any, that the committee is supporting or opposing, and the identity, if known, of any candidate or elected official that the committee is supporting or opposing.

(7) A statement whether the committee is a continuing one, and if not, the expected termination or dissolution date.

(8) The disposition of residual funds which will be made in the event of dissolution.

(c) Any material change in information previously submitted in a statement of organization, except for the information described in subdivision (6) above, shall be reported to the Secretary of State or judge of probate as provided in Section 17-5-9, within 10 days following the change.

(d) Any political action committee or any principal campaign committee after having filed its initial statement of organization shall continue in existence until terminated or dissolved as provided herein. When any political action committee determines it will no longer receive contributions or make expenditures during any calendar year in an aggregate amount exceeding one thousand dollars (\$1,000), or when any candidate through his or her principal campaign committee determines that he or she will not receive contributions or make expenditures in the amounts specified in Section 17-5-2, the chair or treasurer of such political committee may so notify the Secretary of State or judge of probate, as designated in Section 17-5-9, of the termination or dissolution of such political committee. Such notice shall contain a statement by the treasurer of such committee of the intended disposition of any residual funds then held by the committee on behalf of a candidate.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §5; §17-22A-5; amended and renumbered by Act 2006-570, p. 1331, §24.)*

#### **Section 17-5-6**

##### **Checking account; expenditures.**

A political action committee and a principal campaign committee shall maintain a checking account and shall deposit any contributions received by such committee into such account. No expenditure of funds may be made by any such committee except by check drawn on such account, or out of a petty cash fund from which it may make expenditures not in excess of one hundred dollars (\$100) to any person in connection with a single purchase or transaction.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §6; §17-22A-6; amended and renumbered by Act 2006-570, p. 1331, §24.)*

#### **Section 17-5-7**

##### **Use of excess moneys received; solicitation, etc., of contributions.**

(a) Except as provided in subsection (d) and in Section 17-5-7.1, a candidate, public official, or treasurer of a principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidate, public official, or principal campaign committee, for the following purposes:

- (1) Necessary and ordinary expenditures of the campaign.
- (2) Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.
- (3) Donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds.
- (4) Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U. S. Code.

(5) Inaugural or transitional expenses.

(6) Donations to a legislative caucus organization registered under this chapter which does not operate as a political action committee.

(b) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions:

(1) To influence the outcome of an election.

(2) For a period of 12 months before an election in which the person intends to be a candidate. Provided, however, candidates for legislative and statewide office and their principal campaign committees may not accept, solicit, or receive contributions during the period when the Legislature is convened in session. For purposes of this section, the Legislature is convened in session at any time from the opening day of the special or regular session and continued through the day of adjournment sine die for that session. However, this subdivision shall not apply within 120 days of any primary, runoff, or general election, and shall not apply to the candidates or their principal campaign committees participating in any special election as called by the Governor. This subdivision shall not apply to a loan from a candidate to his or her own principal campaign committee.

(3) For a period of 120 days after the election in which the person was a candidate, but only to the extent of any campaign debt of the candidate or principal campaign committee of the candidate as indicated on the campaign financial disclosure form or to the extent of reaching the threshold that is required for qualification as a candidate for the office which he or she currently holds, or both.

(4) For the purpose of paying all expenses associated with an election challenge including, but not limited to, quo warranto challenges.

(c) Notwithstanding any other provision of law, including, but not limited to, Section 13A-10-61, a candidate, public official, or principal campaign committee shall not accept, solicit, or receive contributions for any of the following reasons:

(1) As a bribe, as defined by Sections 13A-10-60 to 13A-10-63, inclusive.

(2) For the intention of corruptly influencing the official actions of the public official or candidate for public office.

(d) Notwithstanding any other provision of law, a principal campaign committee, during a two-year period commencing on the day after each regularly scheduled general election and ending on the day of the next regularly scheduled general election, may pay qualifying fees to a political party and in addition thereto, during that period, may expend up to a cumulative total of five thousand dollars (\$5,000) of campaign contributions, and any proceeds from investing the contributions, for the following purposes:

(1) Tickets for political party dinners or functions.

(2) State or local political party dues or similar expenses incurred by independent or write-in candidates.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §7; Acts 1993, No. 93-762, p. 1528, §1; Acts 1997, No. 97-651, p. 1217, §1; Act 99-695, 2nd Sp. Sess., p. 202, §1; §17-22A-7; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2010-765, 1st Sp. Sess., p. 38, §2; Act 2013-311, §1.)*

#### **Section 17-5-8**

**Reports of contributions and expenditures by candidates, committees, and officials; filing; procedure.**

(a) The treasurer, designated filing agent, or candidate, shall file with the Secretary of State or judge of probate, as designated in Section 17-5-9, periodic reports of contributions and expenditures at the following times once a principal campaign committee files its statement under Section 17-5-4 or a political action committee files its statement of organization under Section 17-5-5:

(1) Beginning after the 2012 election cycle, regardless of whether a candidate has opposition in any election, monthly reports not later than the second business day of the subsequent month, beginning 12 months before the date of any primary, special, runoff, or general election for which a political action committee or principal campaign committee receives contributions or makes expenditures with a view toward influencing such election's result. A monthly report shall include all reportable transactions for the previous full month period. Reports shall be required as provided in subdivisions (2) and (3).

(2) With regard to a primary, special, runoff, or general election, a report shall be required weekly on the Monday of the succeeding week for each of the four weeks before the election that includes all reportable activities for the previous week.

(3)a. In addition to the reporting dates specified in subdivisions (1) and (2), reports required to be filed with the Secretary of State shall be filed with the Secretary of State on the eighth, seventh, sixth, fifth, fourth, third, and second day preceding a legislative, state school board, or other statewide primary, special, runoff, or general election, and by 12:01 p.m. on the day preceding a legislative, state school board, or statewide, primary, special, runoff, or general election if any principal campaign committee or political action committee receives or spends in the aggregate five thousand dollars (\$5,000) or more on any day with a view toward influencing an election's results. If a daily report is required pursuant to this subdivision, the report shall include all reportable activity occurring on the day of the report as well as all reportable activity that has occurred on each day since the most recent prior report. Principal campaign committees and political action committees that are exempt from electronic filing and principal campaign committees and political action committees required to make daily reports pursuant to this subdivision for the 2012 election cycle may file reports by facsimile (FAX) transmission provided they keep proper documentation in their office.

b. Electronic filing on the Secretary of State's website may be implemented sooner than the 2014 election cycle as an alternative method of reporting; however, electronic filing shall be required beginning with the 2014 election cycle. Electronic filings shall be available to the public on a searchable database maintained on the Secretary of State's website.

(b) Except as provided in subsection (k), each principal campaign committee, political action committee, and elected state and local official covered under the provisions of this chapter, shall annually file with the Secretary of State or judge of probate, as designated in Section 17-5-9, reports of contributions and expenditures made during that year. The annual reports required under this subsection shall be made on or before January 31 of the succeeding year.

(c) Each report under this section shall disclose:

(1) The amount of cash or other assets on hand at the beginning of the reporting period and forward until the end of that reporting period and disbursements made from same.

(2) The identification of each person who has made contributions to such committee or candidate within the calendar year in an aggregate amount greater than one hundred dollars (\$100), together with the amount and date of all such contributions; provided, however, in the case of a political action committee identification shall mean the name and city of residence of each person who has made contributions within the calendar year in an aggregate amount greater than one hundred dollars (\$100).

(3) The total amount of other contributions received during the calendar year but not reported under subdivision (c)(2) of this section.

(4) Each loan to or from any person within the calendar year in an aggregate amount greater than one hundred dollars (\$100), together with the identification of the lender, the identification of the endorsers, or guarantors, if any, and the date and amount of such loans.

(5) The total amount of receipts from any other source during such calendar year.

(6) The grand total of all receipts by or for such committee during the calendar year.

(7) The identification of each person to whom expenditures have been made by or on behalf of such committee or elected official within the calendar year in an aggregate amount greater than one hundred dollars (\$100), the amount, date, and purpose of each such expenditure, and, if applicable, the designation of each constitutional amendment or other proposition with respect to which an expenditure was made.

(8) The identification of each person to whom an expenditure for personal services, salaries, and reimbursed expenses greater than one hundred dollars (\$100) has been made, and which is not otherwise reported or exempted from the provisions of this chapter, including the amount, date, and purpose of such expenditure.

(9) The grand total of all expenditures made by such committee or elected official during the calendar year.

(10) The amount and nature of debts and obligations owed by or to the committee or elected official, together with a statement as to the circumstances and conditions under which any such debt or obligation was extinguished and the consideration therefor.

(d) Each report required by this section shall be signed and filed by the elected official or on behalf of the political action committee by its chair or treasurer and, if filed on behalf of a principal campaign committee, by the candidate represented by such committee. There shall be attached to each such report an affidavit subscribed and sworn to by the official or chair or treasurer and, if filed by a principal campaign committee, the candidate represented by such committee, setting forth in substance that such report is to the best of his or her knowledge and belief in all respects true and complete, and, if made by a candidate, that he or she has not received any contributions or made any expenditures which are not set forth and covered by such report.

(e) Commencing with the 2014 election cycle, electronic filing of contributions and expenditures for any legislative, state school board, and statewide primary, special, runoff, or general election shall be mandatory, except as provided in subsection (g). The Secretary of State may provide electronic reporting sooner than the 2014 election cycle. Electronic filing shall satisfy any filing requirements of this chapter and no paper filing is required for any report filed electronically.

(f) In the 2012 election cycle the provisions for the time of filing contained in subsection (a) shall apply to the paper or facsimile (FAX) filings for any legislative, state school board, or statewide primary, special, runoff, or general election.

(g) Electronic filing of reports shall not apply to any campaign, principal campaign committee, or political action committee receiving ten thousand dollars (\$10,000) or less per election cycle.

(h) In connection with any electioneering communication paid for by a person, nonprofit corporation, entity, principal campaign committee, or other political committee or entity, the payor shall disclose its contributions and expenditures in accordance with this section. The disclosure shall be made in the same form and at the same time as is required of political action committees in this section; provided, however, no duplicate reporting shall be required by a political committee.

(i) Notwithstanding any disclosure requirements of subsection (h), churches are exempt from the requirements of this section unless the church's expenditures are used to influence the outcome of an election. Nothing herein shall require a church to disclose the identities, donations, or contributions of members of the church. As used in this

section, the term church is defined in accordance with and recognized by Internal Revenue Service guidelines and regulations.

(j) Notwithstanding the disclosure requirements of this section, the provisions of this section shall not be interpreted to nor shall they require any disclosure for expenses incurred for any electioneering communication used by any membership or trade organization to communicate with or inform its members, its members' families, or its members' employees or for any electioneering communication by a business entity of any type to its employees or stockholders or their families.

(k) Each report required by this section shall include all reportable transactions occurring since the most recent prior report; however, duplicate reporting is not required by this section. A political action committee or principal campaign committee that is required to file a daily report is not required to also file a weekly report for the week preceding an election specified in subdivision (3) of subsection (a); a committee required to file a weekly report is not required to also file a monthly report in the month in which the election is held; and a committee required to file a monthly report is not required to also file an annual report in the year in which the election is held. The monetary balance in a report of each committee shall begin at the monetary amount appearing in the most recent prior report.

(l) The Secretary of State may promulgate administrative rules pursuant to the Alabama Administrative Procedure Act as are necessary to implement and administer the changes made to this section by Act 2012-477.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §8; §17-22A-8; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2009-751, p. 2273, §1; Act 2011-687, p. 2071, §1; Act 2011-697, p. 2130, §2; Act 2012-477, p. 1320, §§1, 2; Act 2013-311, §1.)*

#### **Section 17-5-9**

##### **Filing procedure.**

(a) All statements and reports, including amendments, required of principal campaign committees under the provisions of this chapter shall be filed with the Secretary of State in the case of candidates for state office or state elected officials, and in the case of candidates for local office or local elected officials, with the judge of probate of the county in which the office is sought.

(b) Political action committees, which seek to influence an election for local office or to influence a proposition regarding a single county, shall file all reports and statements, including amendments, with the judge of probate of the county affected. All other political action committees, except as provided in subsection (a) above, shall file reports and statements with the Secretary of State.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §9; §17-22A-9; amended and renumbered by Act 2006-570, p. 1331, §24.)*

#### **Section 17-5-10**

##### **Public inspection of reports; date of receipt.**

(a) Each report or statement shall be preserved and a copy made available for public inspection by the Secretary of State or judge of probate, whichever is applicable.

(b) The date of filing of a report or statement filed pursuant to this chapter shall be deemed to be the date of receipt by the Secretary of State or judge of probate, as the case may be; provided, that any report or statement filed by certified or registered mail shall be deemed to be filed in a timely fashion if the date of the United States postmark stamped on such report or statement is at least two days prior to the required filing date, and if such report or statement is properly addressed with postage prepaid.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §10; §17-22A-10; amended and renumbered by Act 2006-570, p. 1331, §24.)*

### **Section 17-5-11**

#### **Duties of Secretary of State and judge of probate.**

The Secretary of State and the judge of probate shall have the following duties:

- (1) To accept and file all reports and statements, including amendments, required by the provisions of this chapter to be filed with them and to accept any information voluntarily supplied that exceeds the requirements of this chapter.
- (2) To make each statement and report filed by any principal campaign committee or political action committee or elected official available for public inspection and copying during regular office hours, any such copying to be at the expense of the person requesting copies; except that any information copied from such reports or statements may not be sold or used by any political party, principal campaign committee, or political action committee for the purposes of soliciting contributions or for commercial purposes, without the express written permission of the candidate or the committee reporting such information.
- (3) To furnish any forms to be used in complying with the provisions of this chapter. The expenses incurred by the Secretary of State in furnishing forms, accepting statements and reports, filing statements and reports, and making such statements and reports available to the public shall be paid from moneys designated to the distribution of public documents.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §11; §17-22A-11; amended and renumbered by Act 2006-570, p. 1331, §24.)*

### **Section 17-5-12**

#### **Identification of paid advertisements.**

- (a) Any paid political advertisement or electioneering communication appearing in any print media or broadcast on any electronic media shall clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. It shall be unlawful for any person, nonprofit corporation, entity, candidate, principal campaign committee, or other political action committee to broadcast, publish, or circulate any campaign literature, political advertisement, or electioneering communication without a notice appearing on the printed matter with a clear and unmistakable identification of the entity responsible for directly paying for the advertisement or electioneering communication, or on the broadcast at the beginning, during, or end of a radio or television spot, stating that the communication was a paid advertisement, clearly identifying the entity directly responsible for paying for the advertisement or electioneering communication, and giving the identification of the person, nonprofit corporation, entity, principal campaign committee, or other political action committee or entity that paid for such communication.
- (b) This section does not apply to any political advertisement or electioneering communication used by a candidate and the candidate's supporters or by a political committee if the message or advertisement is:
  - (1) Designed to be worn by a person.
  - (2) Placed as a paid link on an Internet website, provided the message or advertisement is no more than 200 characters in length and the link directs the user to another Internet website that complies with subsection (a).



(3) Placed as a graphic or picture link where compliance with the requirements of this section is not reasonably practical due to the size of the graphic or picture link and the link directs the user to another Internet website that complies with subsection (a).

(4) Placed at no cost on an Internet website for which there is no cost to post content for public users.

(5) Placed or distributed on an unpaid profile account which is available to the public without charge or on a social networking Internet website, as long as the source of the message or advertisement is patently clear from the content or format of the message or advertisement. A candidate or political committee may prominently display a statement indicating that the website or account is an official website or account of the candidate or political committee and is approved by the candidate or political committee. A website or account may not be marked as official without prior approval by the candidate or political committee.

(6) Distributed as a text message or other message via Short Message Service, provided the message is no more than 200 characters in length or requires the recipient to sign up or opt in to receive it.

(7) Connected with or included in any software application or accompanying function, provided that the user signs up, opts in, downloads, or otherwise accesses the application from or through a website that complies with subsection (a).

(8) Sent by a third-party user from or through a campaign or committee's website, provided the website complies with subsection (a).

(9) Contained in or distributed through any other technology related item, service, or device for which compliance with subsection (a) is not reasonably practical due to the size or nature of such item, service, or device as available, or the means of displaying the message or advertisement makes compliance with subsection (a) impracticable.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §12; §17-22A-12; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2011-697, p. 2130, §2; Act 2013-311, §1.)*

### **Section 17-5-13**

#### **Cards, pamphlets, circulars, etc., to bear name of candidate, committee, etc.**

It shall be unlawful for any person, candidate, principal campaign committee, or political action committee to publish or distribute or display, or cause to be published or distributed or displayed, any card, pamphlet, circular, poster, or other printed material relating to or concerning any election, which does not contain the identification required by Section 17-5-2(a)(5) of the person, candidate, principal campaign committee, or political action committee responsible for the publication or distribution or display of the same.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §13; §17-22A-13; amended and renumbered by Act 2006-570, p. 1331, §24.)*

### **Section 17-5-14**

#### **Establishment of political action committee by corporation.**

A political action committee may be established by a corporation, subject to the provisions of this chapter.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §14; §17-22A-14; amended and renumbered by Act 2006-570, p. 1331, §24.)*

**Section 17-5-15****Contributions by one person in name of another; contributions between political action committees, etc.**

(a) It shall be unlawful for any person, acting for himself or herself or on behalf of any entity, to make a contribution in the name of another person or entity, or knowingly permit his or her name, or the entity's name, to be used to effect such a contribution made by one person or entity in the name of another person or entity, or for any candidate, principal campaign committee, or political action committee to knowingly accept a contribution made by one person or entity in the name of another person or entity; provided, however, that nothing in this chapter prohibits any person from soliciting and receiving contributions from other persons for the purpose of making expenditures to a candidate, political campaign committee, political action committee, or elected state or local official required to file reports pursuant to Section 17-5-8.

(b) It shall be unlawful for any political action committee or tax exempt political organization under 26 U.S.C. § 527, including a principal campaign committee, or any person authorized to make an expenditure on behalf of such political action committee or 527 organization, to make a contribution, expenditure, or any other transfer of funds to any other political action committee or 527 organization. It shall be unlawful for any principal campaign committee or any person authorized to make an expenditure on behalf of such principal campaign committee to make a contribution, expenditure, or other transfer of funds to any other principal campaign committee, except where the contribution, expenditure, or any other transfer of funds is made from a principal campaign committee to another principal campaign committee on behalf of the same person. Notwithstanding the foregoing, a political action committee that is not a principal campaign committee may make contributions, expenditures, or other transfers of funds to a principal campaign committee; and a separate segregated fund established by a corporation under federal law, if the fund does not receive any contributions from within this state other than contributions from its employees and directors, is not restricted by this subsection in the amount it may transfer to a political action committee established under the provisions of Section 17-5-14.1 by the same or an affiliated corporation.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §18; §17-22A-18; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2010-765, 1st Sp. Sess., p. 38, §2; Act 2013-311, §1.)*

**Section 17-5-16****Fraudulent misrepresentation as acting for candidate, etc., prohibited.**

It shall be unlawful for any person fraudulently to misrepresent himself or herself, or any other person or organization with which he or she is affiliated, as speaking or writing or otherwise acting for or on behalf of any candidate, principal campaign committee, political action committee, or political party, or agent or employee thereof, in a manner which is damaging or is intended to be damaging to such other candidate, principal campaign committee, political action committee, or political party.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §19; §17-22A-19; amended and renumbered by Act 2006-570, p. 1331, §24.)*

**Section 17-5-17****Solicitation by force, job discrimination, threats, etc., prohibited.**

It shall be unlawful for any person, principal campaign committee, or political action committee established pursuant to this chapter or for any person acting on behalf of such person or committee, to solicit or secure any money or anything of value by physical force, job discrimination or financial reprisals, or by threats thereof or by the imposition of dues, fees, or other moneys required as a condition of employment.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §20; §17-22A-20; amended and renumbered by Act 2006-570, p. 1331, §24.)*

**Section 17-5-18**

**Failure to file required statement or report.**

A certificate of election or nomination shall not be issued to any person elected or nominated to state or local office who shall fail to file any statement or report required by this chapter. A certificate of election or nomination already issued to any person elected or nominated to state or local office who fails to file any statement or report required by this chapter shall be revoked.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §21; §17-22A-21; amended and renumbered by Act 2006-570, p. 1331, §24.)*

**Section 17-5-19**

**Construction of chapter.**

It is the intention of the Legislature by the passage of this chapter that its provisions be construed in pari materia with other laws regulating political contributions, corporations, or political contributions by corporations.

*(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §23; §17-22A-23; amended and renumbered by Act 2006-570, p. 1331, §24.)*

**Note:** *The electronic version of the Fair Campaign Practices Act is provided courtesy of the Alabama Legislature through its web site.*

ALABAMA STATE CAPITOL  
600 DEXTER AVENUE  
SUITE S-105  
MONTGOMERY, AL 36130



(334) 242-7200  
FAX (334) 242-4993  
WWW.SOS.ALABAMA.GOV  
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**JOHN H. MERRILL**  
SECRETARY OF STATE

Dear Citizens of Alabama:

I am pleased to present the 17<sup>th</sup> edition of our Elections Division’s publication, the *Candidate Filing Guide*. This new, up-to-date edition will continue to serve as an instructive guide on the topic of Elections, providing detailed and in-depth information on the Alabama Fair Campaign Practices Act. If you have any questions, please call our Elections Division at 334-242-7210.

We’re honored to serve you and our wonderful state.

Sincerely,

A handwritten signature in black ink that reads "J. H. Merrill".

John H. Merrill  
Secretary of State

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### **For General Questions and Obtaining Forms**



*Contact the Office of the Secretary of State*

Mailing Address:      Elections Division  
                                  Office of the Secretary of State  
                                  P.O. Box 5616  
                                  Montgomery, Alabama 36103-5616

Telephone:              (334) 242-7210 or 1 (800) 274-8683

General FAX:            (334) 242-2444

FAX for Reporting:    (334) 353-2295

World Wide Web:      alabamavotes.gov

E-mail:                    alavoter@vote.alabama.gov

### **For Online Filing Questions**



World Wide Web:      fcpa.alabamavotes.gov

Help Desk Telephone: (888) 864-8910

### **For Ethics Act Compliance Questions**



*Contact the Alabama Ethics Commission*

Telephone:              (334) 242-2997

World Wide Web:      ethics.alabama.gov

## SPECIAL NOTE FOR FEDERAL CANDIDATES

This filing guide applies to candidates for state, county, and municipal offices. Federal candidates must follow reporting guidelines and deadlines administered by the Federal Elections Commission (FEC). For more information, please contact the FEC at:

Federal Elections Commission  
999 E Street Northwest  
Washington, D.C. 20463  
1 (800) 424-9530  
www.fec.gov



## PUBLICATION NOTES

### ***FCPA CANDIDATE FILING GUIDE—SEVENTEENTH EDITION***

Prepared by the Office of the Secretary of State

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#### **Legal Disclaimer**

This document is not a substitute for the *Code of Alabama 1975*. It is provided as a guide and is not intended to be an authoritative statement of law. For further legal information, please consult the *Code of Alabama 1975*, other appropriate legal resources, or your attorney.

# CHAPTER ONE

## GETTING STARTED



The Fair Campaign Practices Act (FCPA), the state's campaign finance law, is found in the *Code Of Alabama 1975*, at **§17-5-1 through §17-5-21**. It sets the rules for how and when candidates can raise and spend money. The law also specifies how campaign finance activities are reported.



### MANDATORY CAMPAIGN FINANCE COMMITTEE

The law requires every candidate to organize a campaign finance committee and file an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form, which lists who serves on the committee. [§17-5-4]

The committee form must be filed within *five (5) days* of becoming a candidate. For purposes of the FCPA, the law defines two ways to become a candidate, the first of either [see §17-5-2(a) (1)]:

1. Reaching the disclosure threshold by either receiving contributions in excess of \$1,000 or making expenditures in excess of \$1,000, regardless of office sought.
2. Qualifying as a candidate with a political party or by filing a petition as a minor party or independent candidate.

All legislative, state school board, and statewide candidates who receive *\$5,000* or more in contributions during an election cycle *must* file their **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form *online* at [fcpa.alabamavotes.gov](http://fcpa.alabamavotes.gov).

Commencing with the 2018 election cycle, all principal campaign committees and political action committees that previously filed with the judge of probate, other than candidates for municipal office, shall file electronically with the Secretary of State. [§17-5-9(e)]

A candidate may either serve as the sole member of his or her principal campaign committee or may appoint from two to five

persons. If a candidate serves as his or her own principal campaign committee, he or she shall designate a **COMMITTEE DISSOLUTION DESIGNEE**, a person responsible for dissolving that principal campaign committee in the event of death or incapacity. If the designated person is unable to serve in this capacity at the time of death or incapacity, the principal campaign committee shall be dissolved by the candidate's personal representative as appointed by the judge of probate. [§17-5-4(c)]

A candidate may also select a **DESIGNATED FILING AGENT** when appointing his or her campaign finance committee. That agent will be authorized to file all required reports for the candidate during the election cycle.



## **STATEMENT OF ECONOMIC INTERESTS**

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Except for federal candidates and office holders with a current **STATEMENT OF ECONOMIC INTERESTS** on file, candidates at every level of government must file a **STATEMENT OF ECONOMIC INTERESTS** form with the State Ethics Commission no more than five days after the date such candidate files his or her qualifying papers with the appropriate election official. [§36-25-15] This form covers the previous calendar year. A candidate who has a current **STATEMENT OF ECONOMIC INTERESTS** form on file with the Ethics Commission does not have to file a duplicate form. For questions about filing the **STATEMENT OF ECONOMIC INTERESTS** form electronically, please visit [ethics.alabama.gov](http://ethics.alabama.gov) or contact them at (334) 242-2997.

If the individual becomes a candidate by qualifying with a political party, the **STATEMENT OF ECONOMIC INTERESTS** must be submitted to the State Ethics Commission no more than five days after the date such candidate files his or her qualifying papers with the appropriate political party. [Ethics Commission Advisory Opinion 2016-17]

If the individual is seeking ballot access by submitting a petition for independent candidacy, the **STATEMENT OF ECONOMIC INTERESTS** must be submitted to the State Ethics Commission no more than five days after the date such candidate files his or her petition to the appropriate election official: the Secretary of State for state candidates or the judge of probate for county candidates. [§36-25-15(a)] [Ethics Commission Advisory Opinion 2016-17]



Each election official who receives a declaration of candidacy or petition to appear on the ballot shall, within five days of receipt, notify the State Ethics Commission of the name of the candidate and the date on which the person became a candidate. The State Ethics Commission shall, within five business days of receipt of such notification, notify the election official whether the candidate has complied with the requirement to submit a **STATEMENT OF ECONOMIC INTERESTS**. [§36-25-15(b)]

A filing that is properly addressed, postage prepaid, postmarked, and mailed on the date the candidate qualifies complies with the statute. A candidate may file a **STATEMENT OF ECONOMIC INTERESTS** form online. [Ethics Commission Advisory Opinion 2016-02]

If a candidate does not submit a **STATEMENT OF ECONOMIC INTERESTS** in accordance with the requirements of §36-25-15, his or her name shall not appear on the ballot, and he or she shall be deemed not qualified as a candidate in that election. The appropriate election official shall remove the name of that candidate from the ballot. [AG's Opinion 98-00200]



## **AFTER THE MANDATORY COMMITTEE FILING**

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While every candidate must appoint a principal campaign committee, candidates who have not reached the \$1,000 threshold are exempt from filing the monthly, weekly and daily FCPA reports until the threshold is reached. [AG's Opinion 90-00343] Otherwise, these reports are due prior to an election. [§17-5-8]

Though not required to file, candidates who have not reached their threshold may still choose to file the optional **WAIVER OF REPORT** form if they are concerned about the appearance of noncompliance.

After reaching the threshold, a candidate files each FCPA report at the required times. All contributions and expenditures, including those received or spent to reach the threshold, are reported. **It is important to note that the payment of any qualifying fee or other cost associated with qualifying to run for office is considered an expenditure of the campaign; therefore, it should be reported as**

**such. If a candidate spends their own money on their campaign, each transaction must be reported as an in-kind contribution. [§17-5-2(a)(7)]**

Contributions from a single source and expenditures made to a single recipient that are greater than \$100 must be itemized on these reports. Therefore, it is important for a candidate to maintain some type of internal record for contributions of \$100 or less, since an additional donation from the same contributor could bring the total to more than \$100 and result in a need to itemize that contributor's contributions. The same is true for expenditures of \$100 or less.

All candidates for all legislative, state school board, and statewide offices who receive more than \$5,000 in contributions during an election cycle must file their FCPA reports online. [§17-5-8(g)] The online FCPA reporting system contains everything a candidate needs to record contributions and expenditures and to file the required reports.

A municipal candidate may request forms for filing these reports from either the Office of the Secretary of State or from the local probate judge. The forms are also available on [alabamavotes.gov](http://alabamavotes.gov). Forms and FCPA educational materials, such as this book, are supplied at no charge to the candidate. However, a candidate is not required to use the forms developed by the Office of the Secretary of State, as long as the information required by the FCPA is included in the report. [AG's Opinion 90-00211]

Electronic filing has been required since the beginning of the 2014 election cycle. State campaign committees and PACs receiving \$5,000 or less in an election cycle are exempt from filing FCPA reports electronically. [§17-5-8(g)] However, these campaign committees are still required to file disclosure forms on paper. These reports may be submitted by FAX, mail, or hand-delivery. [AG's Opinion 2012-028] Beginning with the 2018 election cycle, county candidates and PACs must file electronically with the Office of Secretary of State. They can no longer file with the Judge of Probate.

Candidates who spend more than \$1,000 on an "electioneering communication" will have met the filing threshold for campaign finance reporting. Therefore, the candidate must disclose their contributions and expenditures relating to the electioneering communication in accordance with Code of Alabama 1975, §17-5-8. However, the candidate is not required to duplicate any reporting. See also CHAPTER THREE, CAMPAIGN ADVERTISING, for further information on electioneering communication.



## FILING LOCATIONS

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### 1. Reports for County, District, Circuit, Legislative, and Statewide Offices

These candidates must submit their campaign finance reports and forms online at [fcpa.alabamavotes.gov](http://fcpa.alabamavotes.gov). District, Circuit, Legislative, and Statewide candidates who raise or spend less than \$5,000 may submit paper reports to the Office of the Secretary of State. [§17-5-8 (g)] The mailing address is:

**Office of the Secretary of State  
P.O. Box 5616  
Montgomery, Alabama 36103-5616**

Candidates hand-delivering reports should bring them to the Elections Division located at 600 Dexter Avenue, Suite E-204, Montgomery, Alabama. Suite E-204 is located on the second floor of the State Capitol, which is in the east wing (just off the rotunda on the 2nd floor).

For state campaign committees and state political action committees eligible to submit reports on paper by fax the Secretary of State's fax number is (334) 242-2444.

If you have questions, call the Elections division at (334) 242-7210 or at 1 (800) 274-8683.

**Please note that county candidates must file electronically with the Office of the Secretary of State. County candidates may not file on paper.**

### 2. Reports for Municipal Offices

Municipal reports are submitted to the office of the probate judge in the county where that municipality's city hall is located. **Municipal candidates may not file electronically.**



## DEADLINES

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According to the FCPA, forms that are submitted electronically, hand-delivered, or sent by regular United States mail must be received on or before the due date.

In order for disclosure reports sent by certified or registered United States mail to be deemed timely filed, they must be postmarked no later than the required filing date. [§17-5-10(b)]



## FILING SCHEDULE

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During the election cycle, but no earlier than 12 months prior to an election, campaign finance disclosure reports are filed at specific times before the election.

The FCPA filing calendar for the current election year is available from the Secretary of State's Office and is published on its website. Please take careful note of all deadlines as they may be subject to change.

The online FCPA reporting system contains a filing calendar for each election cycle; each candidate should select his or her election cycle and the system will automatically generate the correct calendar for the candidate to follow.

Additionally, principal campaign committees and political action committees must disclose the receipt of any single contribution of \$20,000 or more within ***two (2) business days*** of receiving the contribution if the contribution is not reported in a monthly, weekly, or daily report. [§17-5-8.1(c)]



## PRE-ELECTION REPORTS

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### 1. Monthly Report

Monthly reports are due no later than the second business day of the following month and must include all reportable transactions for the previous full month. [§17-5-8(a)(1)] The candidate's first monthly report must include all unreported activity to date.

### 2. Weekly Report

Weekly reports are due on the Monday of the following week for each of the four weeks before the election date; a week is defined as running from a Saturday to a Friday. The first weekly report shall include all reportable transactions

that occurred since the most recently filed prior report. [§17-5-8(a)(2)]

### 3. Daily Report (if applicable)

Daily reports apply only to candidates for state legislature, state school board, and statewide offices. Daily reports do not apply to candidates for county and city offices or to candidates for district or circuit court, circuit clerk, or district attorney.

In some instances, campaign committees for state offices and political action committees are required to file daily reports. Beginning on the 8<sup>th</sup> day prior to the election, daily reports are due for principal campaign committees or PACs that receive or spend \$5,000 or more on that day with a view toward influencing the election. [§17-5-8(a)(3)] To clarify, daily reports would only be due on those days that the \$5,000 daily threshold is met.

Daily reports are due each filing day by 11:59 PM, *including Saturday* and *Sunday*. The last daily report, if applicable, is due by 12:01PM on the day before the election. [§17-5-8(a)(3)(a)]

### 4. Major Contribution Report (if applicable)

Principal campaign committees must disclose the receipt of any single contribution of \$20,000 or more within ***two (2) business days*** of receiving the contribution if it is not included in a monthly, weekly, or daily report. [§17-5-8.1(c)] The term “contribution” includes monetary and in-kind contributions, as well as loans and other transfers to the principal campaign committee or political action committee.

If not included on a monthly, weekly, or daily report, the contribution is to be filed on a **MAJOR CONTRIBUTION REPORT** form available in the electronic filing system or from the Secretary of State’s Election Division.

### 5. Duplicate Reports

No duplicate reports are required by the law. A political action committee or principal campaign committee that is required to file a daily report is not required to also file

a weekly report for the week preceding an election. A committee required to file a weekly report is not required to also file a monthly report in the month in which the election is held. A committee required to file a monthly report is not required to also file an annual report in the year in which the election is held. [§17-5-8(k)]



## **ANNUAL REPORTS**

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An annual report covering each calendar year is due no later than January 31<sup>st</sup> of the succeeding year. [§17-5-8(b)]

Each principal campaign committee, political action committee, and elected state and local official subject to the requirements of the FCPA who has not closed his or her principal campaign committee, shall annually file with the Secretary of State or judge of probate. [§17-5-8(b)]

No annual report is required to be filed by a person who holds office because he or she was appointed to serve the remainder of a term vacated by another person, until the person serving has created a principal campaign committee. [§17-5-8(b)]



## **PENALTIES**

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The 2013 revisions to the FCPA expanded the penalties for noncompliance.

A candidate who intentionally violates a reporting requirement in §17-5-4, §17-5-5 or §17-5-8 is guilty, upon conviction, of a Class A misdemeanor. [§17-5-19(b)]

A candidate who intentionally violates any section other than §17-5-7 of the FCPA is guilty of a Class A misdemeanor. [§17-5-19(a)]

Any person who intentionally violates §17-5-7, which addresses limits on candidates receiving campaign contributions and spending campaign money, is guilty, upon conviction, of a Class B felony. [§17-5-19(c)] See CHAPTER TWO, CAMPAIGN FUNDS, for further information on this section of the law.

The FCPA prohibits any candidate from accepting more than \$1,000 from a principal campaign committee of a federal candidate. [§17-5-15.1(a)] A candidate who violates this provision is guilty,

upon conviction, of a Class C felony. [§17-5-15.1(b)]

Commencing June 5, 2017, the appropriate election official, based on the location of filing, shall levy an administrative penalty against any person who fails to timely file a required report and who does not remedy the filing of the required report. The State Ethics Commission shall have the authority to levy an administrative penalty against any person who files a materially inaccurate report and who does not remedy the filing of the report. [§17-5-19.1(a)]

Failure to file a timely report shall not be considered an offense or subjected to a civil penalty so long as it is the first failure by that candidate or political action committee for the election cycle and the report is filed within 48 hours of the time it was due. [§17-5-19.1 (h)]

Civil penalties levied shall be paid to the appropriate filing official within 45 days of the finality of any review. All penalties collected by a judge of probate shall be distributed to that county's general fund, and all penalties collected by the Secretary of State shall be distributed to the State General Fund. [§17-5-19.1(e) and (f)]

The schedule of civil penalties is as follows [§17-5-19.1(b)(1-3)]:

- ⇒ the lesser of \$300 or 10% of the amount not properly reported for a first offense in an election cycle;
- ⇒ the lesser of \$600 or 15% of the amount not properly reported for a second offense in an election cycle; or
- ⇒ the lesser of \$1,200 or 20% of the amount not properly reported for a third and all subsequent offenses in an election cycle.

A fourth failure to properly file a required FCPA report creates a rebuttable presumption that the candidate is intentionally violating the reporting requirements. The Secretary of State or judge of probate shall notify the Attorney General or the appropriate district attorney of all persons who violate the filing requirements four or more times in an election cycle. [§17-5-19.1(c)]

Any penalties assessed may be paid with campaign funds. [§17-5-19.1(i)]

Any person upon whom a civil penalty has been imposed may seek a review by filing written notice with the Secretary of State or judge of probate within 14 days after notification of the imposed penalty. The Secretary of State or judge of probate shall refer such review to the State Ethics Commission. [§17-5-19.2(a)]

The commission may set aside or reduce a civil penalty upon a showing of good cause. The person seeking review shall bear the burden of proof. [§17-5-19.2(b)]

Any candidate who voluntarily files an amended report to correct an error without being prompted by the filing official will not be subjected to the civil penalty. In the case of a candidate, the correction must be filed prior to the election at issue. In the case of a political action committee, the correction must be filed prior to the close of the calendar year. [§17-5-19.1(g)]



## FORMS

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FCPA candidate forms fall into two categories: 1) committee forms and 2) disclosure filings. Disclosure filings are submitted as pre-election reports (i.e. monthly, weekly, daily, a major contribution reports), annual reports (due each January, except for the year in which a candidate participates in an election), and termination reports (filed upon dissolution of a committee).

As noted previously, candidates who are required to file electronically will have access to all the forms online, and after registering with the online FCPA reporting system, will no longer file paper forms for any reason.

### **COMMITTEE FORMS**

Candidates have two committee filings, the **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form, used to set up the committee, and the **STATEMENT OF DISSOLUTION**, filed when the committee is closed.

The importance of the mandatory committee filing has already been discussed on pages 4 and 5. Once a committee is formed and the threshold reached, a candidate continues filing disclosure reports until the committee is dissolved.

**CHANGES/UPDATES.** Whenever a change takes place in the committee, such as the addition or removal of officers or members, change of phone number or address, or change of name for the political committee, candidates may provide the new information online by updating their **COMMITTEE REGISTRATION** or by filing a new **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form as discussed on pages 4 and 5. [§17-5-5(c)]



**STATEMENT OF DISSOLUTION.** Once a candidate determines that he or she will no longer receive contributions or make expenditures, a **STATEMENT OF DISSOLUTION** form may be filed. [§17-5-5(d)] This form should be accompanied by a **TERMINATION REPORT**, which itemizes all contributions/expenditures of more than \$100 received or made since the last itemized report. The **TERMINATION REPORT** is filed using **FORMS 1A-6**, discussed under the **ANNUAL REPORT** and pre-election report forms sections on this and the following pages. If the **TERMINATION REPORT** is not filed with the **STATEMENT OF DISSOLUTION**, then the candidate must file the requisite **ANNUAL REPORT** covering the last year of activity.

The candidate must also disclose how any excess funds will be used. See pages 21 and 22 for information on the law and excess funds.

### **FCPA DISCLOSURE FILINGS**

Upon reaching the disclosure threshold by either raising or spending \$1,000, a candidate is responsible for filing the following disclosure reports, itemizing contributions or expenditures of more than \$100:

- ⇒ **Monthly Reports** — due no later than the second business day of the following month and must include all reportable transactions for the previous full month.
- ⇒ **Weekly Reports** — due on the Monday of the following week for each of the four weeks before the election date; for reporting purposes, a week is defined as running from a Saturday to a Friday.
- ⇒ **Daily Reports** — beginning on the 8<sup>th</sup> day prior to the election, daily reports are due for principal campaign committees and PACs that receive or spend \$5,000 or more on that day with a view toward influencing the election. [§17-5-8(a)(3)] To clarify, daily reports would only be due on those days that the \$5,000 daily threshold is met. **Daily reports do not apply to circuit, district, county, and city candidates.**
- ⇒ **Major Contribution Report.** Principal campaign committees and PACs must file a report disclosing

the receipt of any single contribution of \$20,000 or more within **two (2) business days** of receiving the contribution if the contribution has not already been reported in a finance disclosure report.

### **FCPA REPORT FORMS (FORMS 1-6)**

**Form 1:** Summary of Contributions and Expenditures.

This FCPA form must be signed by the candidate or elected official and notarized. However, for electronically filed reports, the form is electronically signed and does not require notarization.

**Form 2:** Cash Contributions. The FCPA requires that cash contributions of more than \$100 be itemized. If they choose to do so, candidates may itemize contributions of \$100 or less, but this is not required by law. However, if contributions of \$100 or less are not itemized, the law does require that they be totaled and reported. They may be reported as “non-itemized” contributions on **FORM 1**.

As mentioned earlier, some type of campaign bookkeeping system should be used to track contributors making small donations of \$100 or less per contribution. If the combined contributions from any one contributor total more than \$100, an itemized entry on **FORM 2** is then required.

For purposes of reporting contributions, the date of receipt of a contribution shall be the first date the recipient of the contribution is able to make use of the contribution. In the case of a contribution in the form of a check, the date of the receipt is the earlier of: 1) ten days from the date that the check came within the recipient’s control; or 2) the date that the check was deposited into the recipient’s account. [§17-5-2(a)(3)(c)]

A political action committee and a principal campaign committee shall maintain a checking account, money market account, or other similar banking account. [§17-5-6]

**Form 3:** In-kind Contributions. An “in-kind” contribution is made when equipment, furniture, office space,

or some other item of value other than money is contributed or used. A reasonable market value should be listed.

**Form 4:** *Receipts from Other Sources.* Receipts from other sources are usually funds received through interest payments on a political committee bank account, loans made to the committee, or refunds.

**Form 5:** *Expenditures.* The FCPA requires that expenditures of more than \$100 be itemized. Candidates may itemize expenditures of \$100 or less, but this is not required by law. However, if the expenditures of \$100 or less are not itemized, the law does require that they be totaled and reported. They may be reported as “non-itemized” expenditures on **FORM 1**.

As with contributions, some type of campaign bookkeeping system should be used to track small expenditures. If expenditures to the same vendor total more than \$100, an itemized entry on **FORM 5** is then required.

For purposes of reporting expenditures, the date an expenditure is made is the date the instrument authorizes the expenditure. In the case of an expenditure made by check or electronic payment, the date of expenditure is the date of the check or electronic payment. [§17-5-2(a)(7)(c)]

No expenditure of funds may be made by any such committee except by check drawn on such account, electronic transfer from such account, a credit card, the balance of which is paid from such account, or petty cash fund from which it may make expenditures not in excess of \$100 to any person in connection with a single purchase transaction. [§17-5-6]

**Form 6:** *Expenditures on Line of Credit:* Committees may utilize a credit card or other line of credit to pay for expenditures, the balance of which must be paid from the committee checking account, money market account, or other similar banking account. [§17-5-6]

Expenditures paid with a line of credit must be entered on **FORM 6**. These expenditures will not affect the committee account balance. A debt total must be entered on the applicable line on the **ANNUAL REPORT SUMMARY FORM 1A** and must be updated to reflect any expenditures on line of credit and any payments on the amount owed. Interest charges on the line of credit balance must be entered on this form.

## **ANNUAL REPORT**

The FCPA requires candidates and elected officials to file an **ANNUAL REPORT** by January 31<sup>st</sup>, which covers all contributions and expenditures for the campaign committee for the preceding calendar year. Each principal campaign committee, political action committee, and elected state and local official who has not closed his or her principal campaign committee shall annually file with the Secretary of State or judge of probate for municipal candidates. [§17-5-8(b)]

Persons who have been appointed to a public office are not required to file an **ANNUAL REPORT** until they become a candidate by either running for the same office or another office.

The **ANNUAL REPORT** is comprised of the same forms as the other FCPA disclosure reports discussed in the previous section with one exception.

**FORM 1** of the disclosure reports is replaced by **FORM 1A**, a form specifically designed for the purposes of the **ANNUAL REPORT**. **FORM 1A** is designed with two sections.

*Section I* summarizes totals of contributions/expenditures since the last filing.

In the itemized sections of the **ANNUAL REPORT (FORMS 2-6)**, candidates include those entries of more than \$100 that have been received or spent since the last itemized report.

*Section II* is a **summary** of contributions/expenditures for January 1 – December 31 of the previous year. [**FORM 1A** must be notarized if filed on paper.]

## **WAIVER OF REPORT (OPTIONAL FORM)**

Those principal campaign committees that have not reached the contribution/expenditure threshold are not required to file reports. However, an optional **WAIVER OF REPORT** form is provided for those who wish to place a record of their status in a formal FCPA report.

A **WAIVER OF REPORT** form may not be used by: 1) candidates who have a principal campaign committee that has met the contribution/expenditure threshold in any election cycle; 2) elected officials who have not dissolved their principal campaign committee.



## **PUBLIC ACCESS**

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The FCPA requires the Secretary of State and probate judges to make the campaign finance reports available for public inspection and copying during regular office hours.

However, the law specifies that information copied from the reports may not be sold or used by any political party or any political committee to solicit contributions or for commercial purposes, without the express written permission of the candidate or political committee reporting the information. [§17-5-11(2)]



## **POINTS TO NOTE**

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**Campaign Activities.** The FCPA contains other provisions, in addition to those dealing with campaign finance reporting. The Office of the Secretary of State recommends a complete reading of the act, which is contained in the Code of Alabama 1975, §17-5-1 through §17-5-21.

**Prohibitions.** Candidates should note the statutes on conduct that are contained in §17-17-33 and §17-17-34 of the *Code of Alabama*. Among the prohibited activities are: making a contribution in someone else's name, buying votes, interfering with a person's right to freely cast a vote, soliciting money or anything of value by physical force, job discrimination, financial reprisal, or threats, or

fraudulently misrepresenting oneself as acting for a candidate.

Other sections of state law also address campaign behavior; see pages 20 through 24 for highlights of those statutes.

# CHAPTER TWO

## CAMPAIGN FUNDS



The FCPA has strict controls on the purposes for which a candidate may solicit campaign funds, how the funds can be spent, and when candidates can raise money. In the 2010 special legislative session, the Legislature, through Act of Alabama 2010-765, enacted new rules regarding from whom a candidate may receive funds and to whom a candidate may make contributions.

Additionally, Act 2013-311 and Act 2015-495 revised a number of provisions relating to fundraising and contribution limits.



## FUNDRAISING

### 1. Limitations on Campaign Committees

It is unlawful for one candidate’s campaign committee to contribute to another candidate’s campaign. However, a candidate is permitted to conduct a transfer of anything of value from one campaign committee to another campaign committee when the committees are for the same person. Political action committees (PACs) are permitted to make contributions to principal campaign committees (PCCs). [§17-5-15(b)]

State and local campaign committees are prohibited from receiving more than \$1,000 from a principal campaign committee of a federal candidate. [§17-5-15.1(a)]

**PAC**  
*Political Action Committee*

**PCC**  
*Principal Campaign Committee*

<b>PAC</b>	→	<b>PCC</b>	<input checked="" type="checkbox"/>
<b>PAC</b>	→	<b>PAC</b>	<input type="checkbox"/>
<b>PCC</b>	→	<b>PCC</b>	<input type="checkbox"/>
<b>PCC</b>	→	<b>PAC</b>	<input type="checkbox"/>

\*Note—this guide is for general illustrative purposes only. Please refer to *Section 1* above for special circumstances.

## 2. Accepting and Spending Campaign Funds

The law states that a candidate may only accept campaign contributions for three purposes [§17-5-7(b)(1)-(4)], namely to:

- ☛ Influence the outcome of an election.
- ☛ Pay off a campaign debt or to reach the \$1,000 qualifying threshold or both.
- ☛ Pay all expenses associated with an election challenge, including quo warranto challenges.

Campaign funds, including excess funds left after the election, may be spent only for the following purposes [§17-5-7(a)(1)-(7)]:

- ☛ Expenditures of the campaign.
- ☛ Expenditures that are reasonably related to performing the duties of the office held [does not include personal and legislative living expenses].
- ☛ Donations to the State General Fund, the Education Trust Fund, or equivalent county or municipal funds.
- ☛ Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U.S. Code.
- ☛ Inaugural or transitional expenses. [Warning: the Ethics Act prohibits converting to personal use contributions from an inaugural or transitional fund (§36-25-6).]
- ☛ Donations to a legislative caucus organization registered with the Clerk of the House, Secretary of the Senate, or both in the case of a bicameral caucus, which does not operate as a political action committee. [§17-5-5.1]
- ☛ Legal fees and costs associated with any civil action,



criminal prosecution, or investigation related to conduct reasonably related to performing the duties of the office held.

### 3. Use of Excess Campaign Funds While in Office

The FCPA permits a campaign committee, during a two-year period beginning on the day after each general election and ending on the day of the next regularly scheduled general election, to pay qualifying fees to a political party and pay up to a cumulative total of \$5,000 to the political party for any tickets to party functions, and state or local party dues. Campaign committees for independent candidates or write-in candidates can pay for similar expenses. [§17-5-7(d)]



## FUNDRAISING PERIOD

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Candidates may begin raising money 12 months prior to the election in which they intend to be on the ballot [§17-5-7(b)(2)]. However, FCPA provision §17-5-7(b)(2) prohibits candidates for legislative and statewide offices from *raising* money while the Alabama Legislature is in session, except within 120 days of a primary, primary runoff, or general election. [§17-5-7(b)(2)] These restrictions do not apply to loans candidates make to their own committee. [§17-5-7(b)(2)]

The fundraising prohibition does not affect expenditures. Candidates may spend campaign funds more than 12 months prior to their election. State candidates may continue to spend campaign funds while the Alabama Legislature is in session.

The fundraising prohibition does not apply to candidates for county or city offices. They may continue raising money when the Legislature is in session.



## CONTRIBUTION LIMITS

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State law limits state and local campaign committees from receiving more than \$1,000 from a principal campaign committee of a federal candidate. [§17-5-15.1(a)]

Act 2013-311 specifically repealed previous statutes that limited corporate contributions to \$500 per candidate per election. [§17-5-14(a)]

State law prohibits contributions, transfers of funds, or expenditures to any political action committee, or 527 political organization, from any political action committee, 527 political organization, or a principal campaign committee. [§17-5-15(b)]

It also prohibits contributions from one campaign committee to another campaign committee, except where an individual is giving from his or her campaign committee for one office to his or her campaign committee for another office. [§17-5-15(b)]

A utility regulated by the Alabama Public Service Commission may not make any contribution to a candidate for the Public Service Commission. [17-5-14 (c)]



## **CAMPAIGN DEBT**

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Candidates should take particular note that the FCPA limits the fundraising period to clear campaign debts up to 120 days after the election. They are limited to raising only up to the amount of the debt plus the entire amount of the qualifying threshold for that office. [AG's Opinion 99-00090]

If no debt, candidates can only raise up to the entire amount of the qualifying threshold for that office.

All contributions received after the election to retire any debt must be reported in the next regular report the campaign files:

*“Under the FCPA, all contributions...by candidates, their principal campaign committees, and other political committees are to be reported regardless of the time when the contributions are received.”* [AG's Opinion 96-00120]



## **BRIBES AND CORRUPT INFLUENCE**

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The FCPA prohibits a candidate or campaign finance committee from accepting, soliciting, or receiving a contribution as a bribe or for the intention of corruptly influencing the official actions of a public official or a candidate for public office. [§17- 5-7(c)]



## **PENALTY**

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Any person who intentionally violates the section that governs how and when money can be raised [§17-5-7] is guilty, upon conviction, of a Class B felony. [§17-5-19(c)] A Class B felony carries a penalty of up to \$30,000 and/or not less than two and not more than 20 years imprisonment. [§§ 13A-5-6, 13A-5-11]

In general, the statute of limitations for a violation of the Fair Campaign Practices Act (Title 17, Chapter 5 of the Code of Alabama) is two years from the commission of the offense. However, the statute of limitations for a violation of §17-5-7 is 4 years. [§17-5-19(e)]

Violators can be prosecuted by either a district attorney or the Attorney General. [§17-5-19(d)]

## CHAPTER THREE

### CAMPAIGN ADVERTISING



The FCPA specifies that campaign advertising and electioneering communications appearing in print, broadcast, and electronic media must clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. [§17-5-12(a)]

Campaign literature and advertisements must carry this information and broadcast materials must be identified at the beginning, during, or the end of the radio or television spot. [§17-5-12(a)]

Act 2011-697 created the definition of “electioneering communication”. Electioneering communication involves any of the following types of communication:

1. Any communication circulated through federally regulated broadcast media;
2. Any mailing or other distribution;
3. Any electronic communication;
4. Any phone bank; or
5. Any publication. [§17-5-2(a)(5)]

These types of communication must also fulfill all of the four (4) following elements in order for it to meet the “electioneering communication” definition.

1. It must contain the name or image of a candidate;
2. It is made within 120 days of an election in which the candidate’s name appears on the ballot;
3. The only reasonable conclusion from the presentation and content of the communication is that it is intended to influence the outcome of the election; and
4. The expenditure exceeds one thousand dollars (\$1,000). [§17-5-2(a)(5)]



## ELECTIONEERING COMMUNICATION DISCLOSURE REPORTS

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Any person, including a candidate, who spends more than \$1,000 on an electioneering communication is required to file a disclosure report. The reports must identify the source or sources of the funds used for the electioneering communication and the recipients of expenditures related to the electioneering communication. [§17-5-8(h)]



## DISCLAIMER REQUIREMENT

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The FCPA does not give a specific format for wording the disclaimer. However, the FCPA does state that political advertisements or electioneering communication must clearly and distinctly identify the entity responsible for paying for the advertisement or electioneering communication. The disclaimer must also be displayed on printed advertisements. Disclaimers for broadcasts must occur at the beginning, during, or end of a radio or television spot, stating that the communication was a paid advertisement and identifying the paying entity. [§17-5-12(a)]

Such words as “paid advertisement by,” “paid for by,” and “paid political ad” meet the requirements of the act; however, an advertiser is not limited to just those phrases. The attorney general has advised that:

*“...words which indicate that the advertisement is a paid political advertisement meet the requirements of the law.”* [AG’s Opinion 94-00227]

In addition, the disclaimer must contain the identification of the person, nonprofit corporation, principal campaign committee, or entity placing the ad. Under the FCPA, the term “identification” means *full name and complete address* [§17-5-2(a)(7)]. The attorney general has stated that a complete address includes the street or post office box, city, and state. [AG’s Opinion 94-00227]

Refer to page 27 for sample illustrations of typical political advertisements with disclaimers.



**SAMPLE DISCLAIMER ADVERTISEMENTS**

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**Elect  
John Doe**

Paid for by the  
Committee to Elect John Doe  
PO Box 5551212  
Inacounty, AL 99999

Figure 1: Example of a political advertisement with a disclaimer.

*Elect  
Jane Doe to  
Public Office*

Paid political advertisement by  
Committee to Elect Jane Doe  
PO Box 1212555  
Ourfair City, Alabama 99999

Figure 2: Example of a political advertisement with a disclaimer.



**DISCLAIMER EXCEPTIONS**

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1. Act of Alabama 2011-697 lists (9) types of paid political advertisements and electioneering communications that

are excluded from the identification requirement. The disclaimer requirements do not apply if the advertisement is:

- a. Designed to be worn by a person; [§17-5-12(b)(1)]
  - b. Placed as a paid link on an Internet website, if the message does not exceed 200 characters in length, and the link directs to another Internet website that has a disclaimer; [§17-5-12(b)(2)]
  - c. Placed as a graphic or picture link where a disclaimer is not practical due to the size of the picture, and the link directs to another Internet website that has a disclaimer; [§17-5-12(b)(3)]
  - d. Placed at no cost on an Internet website where there is no cost to post content for public users; [§17-5-12(b)(4)]
  - e. Placed on an unpaid profile account available to the public without charge or a social networking Internet website if the source of the message is obvious from the content or format of the message; [§17-5-12(b)(5)]
  - f. Distributed as a text message or other message via Short Messages Service if the message does not exceed 200 characters in length or requires the recipient sign up or opt in to receive it; [§17-5-12(b)(6)]
  - g. Connected with or included in software application where the user actively chooses to access the application from or through a website that has a disclaimer; [§17-5-12(b)(7)]
  - h. Sent by a third-party from or through a campaign website that has a disclaimer; [§17-5-12(b)(8)]
  - i. Contained in or distributed through any other form of technology where a disclaimer is not practical due to its size or nature. [§17-5-12(b)(9)]
2. *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995)

A U.S. Supreme Court ruling in *McIntyre v. Ohio Elections Commission* seems to provide one very limited exception for advertising identification. In that case, the court

upheld the right of an individual to distribute anonymous leaflets opposing a proposed school tax levy. The impact on the FCPA disclaimer requirements, however, is minimal. Alabama’s Attorney General has written that the ruling:

*“...is limited to individuals who distribute anonymous written material (particularly leaflets) in a non-candidate election.”* [AG’s Opinion 95-00218]

In all other circumstances, the advertising must carry identification.



## **APPLICATION OF DISCLAIMER**

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The advertising disclaimer must be on all types of non-excluded advertising, such as billboards, yard signs, bumper stickers, and pencils.



## **ROBOCALL DISCLOSURE**

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Every automated or pre-recorded communication made through an automated telephone dialing service (often referred to as a robocall) must contain a clear notice at the end of the communication stating that it is a paid political advertisement and identifying the person or other entity that paid for the communication. [§17-5-16(b)]



## **PENALTY**

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The Attorney General or a district attorney may prosecute any person who violates the FCPA. [§17-5-19(d)] Failure to comply with the advertising requirements is a Class A misdemeanor and, upon conviction, is subject to a fine of not more than \$6,000 and/or imprisonment of not more than one year. [§13A-5-7; §13A-5-12; §17-5-19(a)]





## **CAMPAIGN ADVERTISING AT THE POLLING PLACE**

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The FCPA requires that all campaign advertising must be clearly marked. Another section of law, §17-9-50, prohibits anyone from campaigning within 30 feet of the polling place. Generally, that distance is interpreted as 30 feet from the door of the building in which the polling place is located. [AG's Opinion 82-00113]

Candidates frequently ask if supporters may wear campaign T-shirts or buttons when they go to the polling place to vote or when campaign workers are asked to accompany a voter who has requested assistance. AG's Opinion 93-00118 states that there is no provision that specifically prohibits an elector from wearing campaign buttons, badges, or T-shirts while inside the polling place to vote or assist another voter.

Also, nothing prohibits a voter from taking a sample ballot into the polling place, but a sample ballot should not be left in the polling place.

It should be noted that poll watchers, who can be appointed by the candidate or a political party, are prohibited from campaigning while inside the polling place, and the Attorney General has held that wearing buttons, badges, or T-shirts suggests, either directly or indirectly, how a citizen should vote and therefore, constitutes campaigning. [AG's Opinions 93-00118 and 84-00020]



## **OTHER CODE SECTIONS OF INTEREST**

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### **MISCELLANEOUS OFFENSES**

#### **SECTIONS 17-17-36 through 17-17-45**

This section of law prohibits such illegal voting as casting more than one ballot for the same office or knowingly attempting to vote when not entitled to do so.

Citizens are prohibited from bribing or attempting to influence voters, buying or selling votes, altering or changing the vote of an elector, or disturbing an elector on election day.

A candidate convicted of bribing or attempting to influence a voter is not allowed to hold the office to which he or she was elected for that term.

**RIGHTS OF CITY, COUNTY, STATE EMPLOYEES**  
**SECTION 17-1-4**

City, county, and state employees have the right to participate in city, county, or state political activities to the same extent as any other citizen of the state, including endorsing candidates and contributing to campaigns. City, county, and state employees also have the right to join local political clubs and organizations and state and national political parties. They may also publicly support issues of public welfare.

**IMPROPER USE OF STATE PROPERTY, TIME, ETC.**  
**FOR POLITICAL ACTIVITIES**  
**SECTION 17-17-5**

No state, county, or city employee shall use public funds, property, or time for any political activity.

It is unlawful for any officer or public employee to solicit any type of political campaign contributions from other employees who work for the officer or employee in a subordinate capacity.

It is unlawful for an officer or public employee to coerce or attempt to coerce a subordinate employee to work in a political campaign or cause.

**USE OF STATE-OWNED PROPERTY**  
**SECTIONS 36-12-60 through 64**

It is unlawful for any state officer or employee to use or to permit to be used any state-owned property including stationery, stamps, office equipment, office supplies, or automobiles for political activity.

State employees are also prohibited from transporting campaign literature in either a state vehicle or in a private vehicle while mileage is being paid for by the state.

## CHAPTER FOUR

### FREQUENTLY ASKED QUESTIONS



The Elections Division receives many questions from candidates regarding the FCPA and how it relates to a particular situation or set of circumstances. The following is a discussion of some of those questions that are asked most frequently.

Should you have a question that is not addressed in this section, please contact the Elections Division for further assistance.

***What is the difference between a “state office” and a “statewide office?”***

The term “state office” refers to any elected position that is an official in Alabama *state government*. The term includes constitutional officers, legislative members, state school board members, and circuit and district judges, to name a few. The term does not include those positions in *county or municipal government*, such as county commissioner, county school board member, mayor, or city council member.

The term “statewide office” refers to any state office that is elected in a statewide vote, such as Governor, Lieutenant Governor, Secretary of State, Treasurer, and Attorney General, to name a few.

“Statewide office” does not include any state offices that are elected by district, such as members of the Legislature, circuit or district judges, or state school board members.

***I am a candidate and have met the filing threshold for the office I want to hold. However, I do not have any opposition in my election. Do I have to file a campaign finance report?***

Yes. In 2009, the Alabama Legislature amended the FCPA to require all candidates who have reached the filing threshold to file all campaign finance reports, even if the candidate has no opposition. See page 46 for additional information.

***Must I set up a separate bank account for my principal campaign committee?***

Yes. The FCPA specifies that principal campaign committee funds must be segregated and that there can be no commingling of personal funds with campaign funds. [§17-5-6]

A political action committee and principal campaign committee shall maintain a checking account, money market account, or other similar banking account and shall deposit any contributions received by such committee into such account. No expenditure of funds may be made by any such committee except by check drawn on such account, electronic transfer from such account, a credit card the balance of which is paid from such account, or out of a petty cash fund from which it may make expenditures not in excess of \$100 to any person in connection with a single purchase transaction. [§17-5-6]

***Am I allowed to campaign before I qualify for candidacy for an office?***

Alabama's elections laws do not place a restriction on when a candidate can begin campaigning for office. As a practical matter, the FCPA provides that a campaign can raise or receive funds only for a period of twelve (12) months prior to an election. This restriction does not apply to a loan from a candidate to his or her own campaign committee. [§17-5-7(b)(2)]

***I am running for a federal office. Do I have to report under the FCPA?***

No. Alabama participates in the FEC State Filing Waiver program that waives the requirement that campaign finance reports filed with the FEC also be filed with the state election office, provided that the state has an adequate system to serve the public with electronic access to and duplication of reports and statements.

***Do I have to keep receipts for the expenditures made during the campaign?***

Yes. The FCPA states that the political committee treasurer

must keep a receipted bill or canceled check for every expenditure greater than \$100 and for expenditures of \$100 or less, if the aggregate amount of such expenditures to the same person during a calendar year is greater than \$100. The receipts should be kept for a period of two years from the date of the expenditure.

***I charge many of my campaign expenses on a credit card. Can I itemize only the total amount I pay to the credit card company?***

No. The FCPA requires itemization and identification (full name and complete address) of:

*each person to whom expenditures have been made... within the calendar year in an aggregate amount greater than \$100.00, the amount, date and purpose of each expenditure...[§17-5-8(c)(7)]*

This issue is also addressed in AG's Opinion 95-00132 that says:

*Several expenditures should not be lumped together under a general heading of credit card expenses.*

If a candidate could legally enter only the name and full identification of the credit card company, many expenditures of more than \$100 could be hidden.

Credit card expenditures to any person or entity in an aggregate that exceeds \$100 must be itemized on **FORM 6: Expenditures on Line of Credit**. Any payments to the credit card company must be reported as an expenditure on **FORM 5**.

***Do I have to file an APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE form even if I do not reach the campaign finance contribution/expenditure threshold of \$1,000?***

Yes. All candidates must file an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form within five days of qualifying (with a political party or as an independent candidate) or within five days of reaching the campaign finance contribution/expenditure threshold.

***I paid my qualifying fee out of my personal checking account. Does the qualifying fee go towards my filing threshold?***

Yes. Any money paid on behalf or for the campaign from your personal checking account or credit card (In-Kind Contributions) and any money paid by someone else outside the campaign account all go toward the filing threshold amount of \$1,000.00. Once the filing threshold has been met, you must continue filing your campaign finance reports as long as you are a candidate or on the ballot. All active committees must file an Annual Report by January 31<sup>st</sup> of the succeeding year.

***I currently have money in my campaign account from a previous election for the same office. I have not received any contributions, but I paid my qualifying fee and some other campaign expenses in excess of \$1,000.00 out of my campaign account. Do I have to start filing reports?***

Yes. You have met the threshold amount of \$1,000.00. Once the filing threshold has been met, you must continue filing your campaign finance reports as long as you are a candidate or on the ballot. All active committees must file an Annual Report by January 31<sup>st</sup> of the succeeding year.

***I loaned my campaign committee \$20,000.00. Is this considered a major contribution?***

Yes. Committees must disclose the receipt of any single contribution in excess of \$20,000.00 within two business days of receiving the contribution; if this transaction is not already included on a monthly, weekly, or daily report. [§17-5-8.1 (c)] The term "Contribution" includes monetary and In-Kind contributions, as well as loans and other transfers to the principal campaign committee or political action committee.

***I received an unwanted, unsolicited check from a PAC, and I returned it. Must I report that as a contribution?***

Act 2013-311 specifically amended the FCPA to authorize the return or refund of any lawful campaign contribution. A refund is permitted so long as the original contribution was reported in an itemized manner and the refund is also itemized in a report. [§17-5-7.1(a)] If the contribution is not deposited in the committee's bank account, it may be returned without any reporting requirement. The new provision requires candidates or PACs to refund or return any unlawful contribution within 10 days of receipt. [§17-5-7.1(b)]

***Does the FCPA require that I put the address of my political committee on a campaign button?***

§17-5-12(b)(1) provides that disclaimer requirements do not apply if the advertisement is designed to be worn by a person. If the campaign button is designed to be worn by a person, a disclaimer is not required.

***Is there any prohibition against my borrowing money from my campaign account, provided that I pay back the money plus the prevailing rate of interest?***

The Ethics Act states in §36-25-6:

*Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund **shall not be converted to personal use.***

The Office of Secretary of State further believes that such action is also prohibited by these sections:

§17-5-7(b)(1) of the FCPA —

*...a candidate, public official, or principal campaign committee may only accept, solicit, or receive contributions: **to influence the outcome of an election.***

## §36-25-5(a) of the Ethics Act —

*No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.*

## §17-5-7(a) of the FCPA —

...A candidate, public official, or treasurer of a principal campaign committee as defined in this chapter, may only use campaign contributions, and any proceeds from investing the contributions that are in excess of any amount necessary to defray expenditures of the candidates, public official, or principal campaign committee, for the following purposes:

1. Necessary and ordinary expenditures of the campaign.
2. Expenditures that are reasonably related to performing the duties of the office held. For purposes of this section, expenditures that are reasonably related to performing the duties of the office held do not include personal and legislative living expenses, as defined in this chapter.
3. Donations to the State General Fund, the Education Trust Fund or equivalent county or municipal funds.
4. Donations to an organization to which a federal income tax deduction is permitted under subparagraph (A) of paragraph (1) of subsection (b) of Section 170 of the Internal Revenue Code of 1986, as amended, or any other charitable, educational, or eleemosynary cause of Section 501 of Title 26 of the U.S. Code.



5. Inaugural or transitional expenses.
6. Donations to a legislative caucus organization registered under this chapter which does not operate as a political action committee.
7. Legal fees and costs associated with any civil action, criminal prosecution, or investigation related to conduct reasonably related to performing the duties of the office held.

***Does a write-in candidate have to comply with the FCPA?***

Yes, if the candidate has received contributions or made expenditures with a view toward bringing about his or her election. As with other candidates, the contributions or expenditures must reach the filing threshold of \$1,000 to trigger the **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form and the reporting requirements. [AG's Opinion 91-0084]

***I have several groups, such as the Young Republicans or the Democratic Women, who want to work in my campaign. May I use campaign funds to donate to a group in return for its members' help?***

No. A candidate may not transfer campaign funds to any political action committee or 527 political organization, which generally covers most political groups except county and state parties, which are recognized as political action committees under the FCPA. [§17-5-15(b)] Candidates can only transfer funds to a political party, as a political action committee, within the restrictions of §17-5-7(d).

However, candidates are not prohibited from paying individuals directly who assist with the campaign.

***I have several volunteers who work in my campaign. Must I assess a fair labor wage and report that as an in-kind contribution?***

No. The FCPA lists in §17-5-2(a)(3)(b) several services that are not considered contributions, including:

- ⇒ Value of services provided by individuals who volunteer

their time on behalf of a candidate.

- ⇒ The use of real or personal property and the cost of invitations, food, or beverages, voluntarily provided by an individual to a candidate when the voluntary personal service is on the individual's residential or business premises.
- ⇒ Any unreimbursed payment for travel expenses made by an individual who volunteered on behalf of a candidate.
- ⇒ The amount spent by a state or local political party for the preparation, display, mailing, or other distribution of a printed slate card or sample ballot, or other printed listing of two or more candidates for any public office. [Note: this exemption does not extend to the costs incurred by the committee when such a listing is placed on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising.]
- ⇒ The value or cost of polling data and voter preference data and information, if provided to a candidate or political committee, unless the information was compiled with the advance knowledge of and approval of the candidate or the political committee.

***I am a member of the Alabama Legislature and am considering renting an apartment in Montgomery. Can I pay the rental expense from my campaign account?***

No. The FCPA prohibits using campaign funds for personal or legislative living expenses. The Act lists such prohibited expenses as:

*Household supplies, personal clothing, tuition payments, mortgage, rent, or utility payments for a personal residence; admission to an entertainment event or fees for a country club or social club, unless tied to a specific campaign event or functions involving constituents; and any other expense, excluding food and beverages, that would exist irrespective of the candidate's campaign or duties as a legislator. Personal and legislative living expenses shall not include expenses for food, beverages, travel, or communication incurred by the legislator in the performance of the office held. [§17-5-2(a)(11)]*

***Can I pass out campaign materials on private property, such as an apartment complex, if there is a “no soliciting” sign?***

That’s a question that must be addressed with the property owner. Any enforcement of “no soliciting” would be between the owner and an individual who wishes to campaign. [AG’s Opinion 96-00306]

***Is it legal to pass out sample ballots at the polling place?***

Yes, provided that those handing out the sample ballots are at least 30 feet from the door of the building in which the polling place is located. Also, those individuals distributing sample ballots should not in any manner attempt to intimidate or harass voters. Voters may take marked sample ballots into the polling place for personal use but should not leave them in the polling place.

***May a candidate assist a voter?***

Yes. Under the *Harris v. Siegelman* federal court order, a voter may request assistance from anyone other than those persons prohibited by federal law. [700 F. Supp. 1083 (1988)] Federal law prohibits assistance from the voter’s employer or an agent of the employer or from an officer or agent of the voter’s union. §17-9-13 was revised to incorporate this language and bring the text of this section into compliance with the terms of *Harris v. Siegelman*.

However, candidates should note that they may assist only if the voter requests the help. The voter is then required to sign the poll list in a designated column showing that assistance is requested, and the person providing the assistance must also sign the poll list.

***At the end of the campaign, what must I do to dispose of campaign property?***

Property purchased by or contributed to a principal campaign committee with a value of \$500 or more shall be liquidated at fair market value or donated to a qualified entity not more than 120 days following the election. Any funds generated by the liquidation of the property shall be deposited in the candidate’s principal campaign committee account. [§17-5-7.2(a)]

Property purchased by or contributed to a principal campaign committee that can be used by the person in the performance of his or her duties of the office he or she was elected to hold need not be liquidated as long as he or she holds office. [§17-5-7.2(b)]

***Are there any additional requirements for running for office?***

Some offices, such as county superintendent, may require additional documents to be filed when you qualify to run. Please check the Code of Alabama, 1975, or visit our website, [sos.alabama.gov](http://sos.alabama.gov), for more information. You may also contact your local party chair to make sure that you have all of the necessary paperwork.

Judicial candidates should also remember to file their “Statement of Economic Interests” with both the Ethics Commission and the Clerk of the Alabama Supreme Court.

## CHAPTER FIVE

### ELECTED OFFICIALS



The Secretary of State congratulates each candidate who wins his or her election! Before getting immersed in the details of the job, each elected official should take a few minutes to note the information in this chapter.



### COMMISSIONS

Certain state and county officials must be commissioned by the Secretary of State and Governor before assuming office. County officials who meet certain requirements may also receive commissions. For more information, please consult §36-2-6.

The law dictates what documents must be filed and where for obtaining a commission. Generally, an elected official must file an oath and/or a bond at the state or county level, depending upon the office. County officials must also have a certification from their probate judge. The law requires the Office of the Secretary of State to charge everyone a \$5.00 commissioning fee.

Information packets providing the specific requirements for each office are available from the Government Support Division in the Office of the Secretary of State. You may contact the Government Support Division at (334) 242-7224.



### FILING REQUIREMENTS

#### ***FCPA***

All elected officials who have not closed their principal campaign committee must file an **ANNUAL REPORT** by January 31<sup>st</sup> each year, even if they have had no activity. [§17-5-8(b)] Remember, an **ANNUAL REPORT** is due not just for the year you are elected but for every year you are in office if your principal campaign committee has not been closed.

No annual report is required to be filed by a person who holds office because he or she was appointed to serve the remainder of a term vacated by another person, until the person serving has created a principal campaign committee. [§17-5-8(b)]

### **STATEMENT OF ECONOMIC INTERESTS**

All elected officials must file a **STATEMENT OF ECONOMIC INTERESTS** with the Ethics Commission every year by April 30<sup>th</sup>. For more information, contact the State Ethics Commission, (334) 242-2997.

### **JUDICIAL REPORTS**

Judges have additional requirements and should consult Canons 6C and 7 of the Canons of Judicial Ethics relating to filing requirements and campaign conduct in general.

The requirement previously set forth in §12-24-2(a) to file a statement of disclosure two weeks prior to the commencement of the term of office for any judge or justice was repealed during the 2014 legislative session.

## APPENDIX A

### INDEPENDENT CANDIDACY



Those not qualifying through a political party may obtain ballot access by submitting a petition on or before 5:00 PM on the date of the statewide primary election. [§17-9-3(a)(3)] In 2020, the statewide primary is scheduled for March 3<sup>rd</sup>.

The petition must contain the required number of signatures of registered voters in the jurisdiction in which ballot access is sought (i.e., statewide, countywide, a district). The petition must be submitted to the Secretary of State, if seeking a state or federal office, or to the probate judge for a county office.

The appropriate election official will then verify the petition signatures and subsequently notify the petitioner as to whether he or she gained ballot access.

No qualifying fee is required.



### SIGNATURES

#### ***FEDERAL CANDIDATES***

A congressional candidate must submit a petition with enough signatures to meet or to exceed three percent of the qualified electors who cast ballots for the office of governor in the last general election for the district in which he/she is running. [§17-9-3(a)(3)] For the number of signatures needed in each district, call the Office of Secretary of State's Elections Division at (334) 242-7210. Candidates seeking a U.S. Senate seat would need the number of signatures for statewide candidacy.

#### ***STATE OR COUNTY CANDIDATES***

The number of signatures on the petition must equal or exceed at least three percent of the qualified electors who cast ballots for the

office of governor in the last general election in the county, district, or other political subdivision for which he/she is seeking ballot access. For the number of signatures needed for a particular state office, call the Office of Secretary of State's Elections Division at (334) 242-7210. For the number of signatures needed for a particular county office, call the judge of probate in the county in which the office is located.



## **FAIR CAMPAIGN PRACTICES ACT**

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Independent candidates, except for federal candidates, should be aware of their obligation to file an **APPOINTMENT OF PRINCIPAL CAMPAIGN COMMITTEE** form at the time they submit their petition or within five (5) days of exceeding the monetary threshold amount set forth by the FCPA. Act 2013-311 established a uniform \$1,000 threshold amount for all candidates in all races throughout the state.



## **ETHICS**

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Independent candidates must file a **STATEMENT OF ECONOMIC INTERESTS** with the State Ethics Commission no more than five days after the date he or she files the ballot access petition to be a candidate. For information on filing the **STATEMENT OF ECONOMIC INTERESTS**, call the Alabama Ethics Commission at (334) 242-2997 or visit its website at [www.ethics.alabama.gov](http://www.ethics.alabama.gov).



## **PETITION REQUIREMENTS & SUGGESTIONS**

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A sample petition is available from the Secretary of State's office. It may be downloaded from the website at [alabamavotes.gov](http://alabamavotes.gov). The sample petition may be photocopied.



Each petition must include the following information:

- ⇒ A statement that includes the name of the independent candidate, the date of the general election for which ballot access is sought, and the name of the office sought, including district number, if applicable. Petitions for the establishment of independent candidacy in a special election shall not be required to include the date of the special election at the top of each page. [Alabama Administrative Code, Rule 820-2-4-.05(1)]
- ⇒ Numbered pages.
- ⇒ Requested information for each person signing, which includes: name, residential address, date of birth and signature. A signature is required but shall not be deemed invalid for lacking any portion of the requested information if the disclosed information is sufficient for determining the validity of the signature and that the voter is a qualified elector for the jurisdiction the petition covers.

The following are suggestions for the petition:

- ⇒ Have the voter sign in ink and write legibly.
- ⇒ Obtain signatures in excess of required number, as some signatures may not be valid or identifiable.
- ⇒ Keep a copy of the petition.

## APPENDIX B

### CHANGES IN LAW



#### **ACT OF ALABAMA 2009-751**

In the 2009 session, the Alabama Legislature approved Senate Bill 205. The bill was signed by Governor Bob Riley on May 22, 2009, and subsequently assigned Act number 2009-751. The new law was precleared by the U.S. Department of Justice on November 16, 2009.

Act 2009-751 requires a candidate participating in an election to file all scheduled campaign finance reports once the candidate meets the filing threshold for the office for which he or she is running, even if the candidate has no opposition in the pending election. (See page 4 for more information on filing thresholds.)

Under Act 2009-751, if you are a candidate and have reached the filing threshold for the office you are seeking, you must file all campaign finance reports even if you have no opposition in your primary, special, or general election.



#### **ACT OF ALABAMA 2010-765**

In the 2010 Special Session, the Alabama Legislature approved House Bill 9. The bill was signed by Governor Bob Riley on December 20, 2010, and subsequently assigned Act number 2010-765.

Act 2010-765 bans any PAC, 527 organization, or private foundation from contributing to any other PAC, 527 organization, or private foundation. Act 2010-765 also makes it unlawful for principal campaign committees to contribute to any other principal campaign committee. However, the Act permits a transfer from one principal campaign committee to another principal campaign committee when committees are for the same person. Act 2010-765 permits PACs to contribute to principal campaign committees.

Act 2010-765 limits state and local campaign committees from receiving more than \$1,000 from a principal campaign committee of

a federal candidate.

Act 2010-765 permits a principal campaign committee, while the candidate is in office, to pay qualifying fees to a political party. Additionally, the principal campaign committee may pay dues to a political party and purchase tickets to political party functions or dinners, up to a maximum of \$5,000. Campaign committees for independent candidates or write-in candidates can pay for similar expenses.



## **ACT OF ALABAMA 2011-687**

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In the 2011 session, the Alabama Legislature approved Senate Bill 136. The bill was signed by Governor Robert Bentley on June 14, 2011 and subsequently assigned Act number 2011-687. The new law was precleared by the U.S. Department of Justice on September 26, 2011.

Act 2011-687 changes the timing of filing FCPA campaign finance disclosure forms. The Act eliminates the 50/45 day and 10/5 day pre-election disclosure reports. The Act requires monthly disclosure reports beginning 12 months prior to the election. Monthly reports are due on the last day of each month. Act 2011-687 also requires weekly reports beginning on the month prior to the election. The weekly reports are due on the Friday of each week.

Beginning on the 8<sup>th</sup> day prior to the election, Act 2011-687 also requires daily reports for principal campaign committees and PACs that receive or spend \$5,000 or more on any day with a view toward influencing the election. Daily reports do not apply to elections involving county and city offices. Candidates for circuit and district offices are also exempt from daily reporting.

Principal campaign committees and PACs must disclose the receipt of any single contribution of \$20,000 or more within 2 business days of receiving the contribution if it is not included in a monthly, weekly, or daily report.

Principal campaign committees and PACs must close their books 2 days prior to the specified reporting dates in order to complete the reports.

Act 2011-687 mandates electronic filing of disclosure reports beginning in the 2014 election cycle.



## **ACT OF ALABAMA 2011-697**

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In the 2011 session, the Alabama Legislature approved Senate Bill 284. The bill was signed by Governor Robert Bentley on June 14, 2011 and subsequently assigned Act number 2011-697. The new law was precleared by the U.S. Department of Justice on September 26, 2011.

Act 2011-697 provides that all paid political advertisements and “electioneering communications” appearing in print media or broadcast must clearly and distinctly identify the entity responsible for paying for the political advertisements and electioneering communication. Act 2011-697 defines the new “electioneering communications” term. The Act also lists nine types of paid political advertisements and electioneering communications that are excluded from the identification requirement.

Act 2011-697 eliminates the requirement notice on the front page of printed campaign literature. Instead, the Act requires that printed political advertisements and electioneering communication must have a clear and unmistakable identification of the entity responsible for directly paying for the advertisements or electioneering communication. For paid broadcasts, Act 2011-697 gives the paying person or entity the option of placing an identification statement on the broadcast at the beginning, during, or at the end of the radio or television spot.

Act 2011-697 requires any person or entity, including candidates, that spends more than \$1,000 on an electioneering communication to file disclosure reports. The reports must identify the source or sources of the funds used for the electioneering communication and the recipients of expenditures related to the electioneering communication. However, the candidate is not required to duplicate any reporting.



### **ACT OF ALABAMA 2012-173**

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In the 2012 session, the Alabama Legislature approved Senate Bill 133. The bill was signed by Governor Robert Bentley on April 2, 2012 and was subsequently assigned Act number 2012-173. The new law was precleared by the U.S. Department of Justice on May 30, 2012.

Act 2012-173 amends the Code of Alabama, §17-8-1 to authorize the appointment of alternate election officials including additional inspectors and clerks to serve if an appointed inspector or clerk is unable to perform his or her duties.



### **ACT OF ALABAMA 2012-461**

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In the 2012 session, the Alabama Legislature approved Senate Bill 11. The bill was signed by Governor Robert Bentley on May 15, 2012 and was subsequently assigned Act number 2012-461. The new law was precleared by the U.S. Department of Justice on August 17, 2012.

Act 2012-461 adds a provision to §17-5-16 to require that all campaign-related automated or pre-recorded telephone calls contain a clear notice at the end of the call that the communication was a paid political advertisement and to clearly identify the entity that paid for the call.



### **ACT OF ALABAMA 2012-477**

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In the 2012 session, the Alabama Legislature approved Senate Bill 497. The bill was signed by Governor Robert Bentley on May 15, 2012 and was subsequently assigned Act number 2012-477. The new law was precleared by the U.S. Department of Justice on February 6, 2013.

Act 2012-477 changes the timing of filing FCPA campaign disclosure reports to standardize the monthly and weekly periods for candidates and PACs and to eliminate certain duplicate filings during an election cycle.



## **ACT OF ALABAMA 2013-311**

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In the 2013 session, the Alabama Legislature approved Senate Bill 445. The bill was signed by Governor Robert Bentley on May 23, 2013 and was subsequently assigned Act number 2013-311. The new law was returned by the U.S. Department of Justice in July 2013 as not needing preclearance under the holding of the recent U.S. Supreme Court decision in *Shelby County v. Holder*. The effective date of the Act was August 1, 2013.

This Act repeals the corporate campaign contribution limit, authorizes candidates and PACs to appoint designated filing agents, institutes a progressive administrative fine system for failing to comply with the Act, clarifies which duplicate reports were removed from the reporting schedule, and makes certain editorial changes throughout the Act.



## **ACT OF ALABAMA 2014-455**

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In the 2014 session, the Alabama Legislature approved House Bill 543. The bill was signed by Governor Robert Bentley on April 10, 2014 and subsequently assigned Act number 2014-455.

Act 2014-455 repealed §12-24-2(a), Code of Alabama 1975, which removed the requirement for any judge or justice to file a statement of disclosure two weeks prior to the commencement of their term of office.



## **ACT OF ALABAMA 2015-239**

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In the 2015 session, the Alabama Legislature approved Senate Bill 240. The bill was signed by Governor Robert Bentley on May 27, 2015 and subsequently assigned Act number 2015-239.

Act 2015-239 sets the date for the presidential preference primary as the first Tuesday in March. The statewide primary primary will also be held on the first Tuesday in March in the years in which a presidential preference primary is held.

The presidential delegates will also be elected at this time.



## **ACT OF ALABAMA 2015-477**

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In the 2015 session, the Alabama Legislature approved Senate Bill 148. The bill was signed by Governor Robert Bentley on June 11, 2015 and subsequently assigned Act number 2015-477.

Act 2015-477 changes deadlines for the filing of certain notices and petitions relating to candidacies and the electing of delegates for presidential and vice presidential elections.



## **ACT OF ALABAMA 2015-495**

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In the 2015 session, the Alabama Legislature approved Senate Bill 241. The bill was signed by Governor Robert Bentley on June 12, 2015 and subsequently assigned Act number 2015-495.

Act 2015-495 clarifies when campaign contributions and expenditures are made and clarifies the disposition of a campaign committee and its assets upon its dissolution or termination.

Act 2015-495 also clarifies that legal costs associated with a civil action, criminal prosecution, or investigation that is reasonably related to the performance of duties can be paid using campaign funds. The Act decreases the civil penalties for failure to properly report contributions and expenditures and provides for the payment of civil penalties with campaign funds.

The Act authorizes the State Ethics Commission to affirm, reduce, or set aside civil penalties and to take investigative actions of potential criminal violations. The Act allows for the issuance of advisory opinions, as well as to provide a criminal penalty for disclosing information relating to a filed complaint.

Act 2015-495 requires that county officials who submit their campaign finance disclosure forms to their probate judge must submit their documents to the Office of the Secretary of State using the electronic system at [fcpa.alabamavotes.gov](http://fcpa.alabamavotes.gov) beginning with the 2018 Election Cycle.

The effective date for Act 2015-495 is September 1, 2015.



## **ACT OF ALABAMA 2019-318**

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In the 2019 session, the Alabama Legislature approved House Bill 247. The bill was signed by Governor Kay Ivey on May 29, 2019 and subsequently assigned Act number 2019-318.

Act 2019-318 changes the date of the statewide primary from the first Tuesday in June to the fourth Tuesday in May. The Act also changes the date of the runoff election from six weeks after the primary to four weeks after the primary. The presidential preference primary will still be held on the first Tuesday in March and in years in which a presidential preference primary is held, the statewide primary will be held at the same time.



## **ACT OF ALABAMA 2019-529**

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In the 2019 session, the Alabama Legislature approved House Bill 259. The bill was signed by Governor Kay Ivey on June 10, 2019 and subsequently assigned Act number 2019-529.

Act 2019-529 allows candidates to submit their STATEMENT OF ECONOMIC INTERESTS with the Ethics Commission no more than five (5) days after the candidate qualifies with party or files ballot access petitions with the appropriate election official.

The effective date of Act 2019-529 is September 1, 2019.



## APPENDIX C

### ONLINE FILING SYSTEM QUICK OVERVIEW



#### ONLINE SYSTEM REGISTRATION

1. Visit website: [fcpa.alabamavotes.gov](http://fcpa.alabamavotes.gov)
2. Click Committee Registration
3. Committee Registration Documents:
  - Candidates select ***Appointment of Principal Campaign Committee (PCC)***
  - Political Action Committees (PACs) select ***Statement of Organization***
4. Original committee document **signed by every committee member, copied for your records, and** should be mailed to:  
**Office of the Secretary of State Elections Division, PO Box 5616, Montgomery, Alabama 36103**
5. Upon receipt of the signed *original* committee registration document, the Elections Division will activate the FCPA account. After activation, the registered user will receive two emails: 1) an email with a registration confirmation with their username; 2) an email with a link to the website to change the PIN to one of the user's choosing.

Note: if an FCPA report is due within 5 days, an emergency activation can be granted. In this circumstance, a committee should fax a signed copy of the committee registration document to 334-242-2444 so that the account can be immediately activated. However, the signed *original* committee document should be simultaneously mailed to the Elections Division.



## SYSTEM TABS

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The FCPA online filing system is operated by the use of a series of tabbed topic sections located at the top of the screen. This guide will give an overview of the contents within each section, as well as a brief description regarding the most frequently used functions in the individual tabbed sections. For special circumstances or specific guidance, please call the Elections Division at 334-242-7210 or 1-800-274-8683. To reach the FCPA filing system HELP DESK, call **1-888-864-8910**.

### 1. **Overview Tab**

- ☞ Account Status—gives an overview of account ending balance and pending transaction balances
- ☞ Transaction History Overview—gives an overview of ending balances by transaction
- ☞ Reports Due—lists upcoming reports with the function to view and file sequential reports
- ☞ Document Images—contains function to save report images and add supplemental documents

### 2. **Contributions/In-Kind Tab**

- ☞ Contribution History—listing of posted contributions with the function to add new contributions or update existing contributions
- ☞ Contribution Maintenance—contains function to search by contributor and perform contributor informational changes

### 3. **Other Receipts Tab**

- ☞ Receipt History—listing of posted receipts with the function to add new receipts or update existing receipts (i.e., loans/interest/other)
- ☞ Receipt Maintenance—contains function to search receipts and perform receipt source informational changes

### 4. **Expenditures Tab**

- ☞ Expenditure History—listing of posted expenditures, only used for money spent out of campaign account, with the function to

*add* new expenditures or *update* existing expenditures

- ☞ Payee Maintenance—contains function to search by payee and perform payee informational changes

## 5. **File Reports Tab**

- ☞ Filing History—listing of FILED reports with the function to *view* and *amend* filed reports
- ☞ Reports Due—lists upcoming reports with the function to *view* and *file* sequential reports
- ☞ Supplemental Forms—contains function to *add* WAIVER OF REPORT and STATEMENT OF DISSOLUTION reports

## 6. **Search Tab**

- ☞ Transaction Search—contains function to quick-search posted transactions

## 7. **Administration Tab**

- ☞ Committee—contains function to *update* or perform committee informational changes

**Note:** if making committee changes or updates, print and have each member sign the *amended* Principal Campaign Committee or Statement of Organization document and mail it to the Elections Division at PO Box 5616, Montgomery, AL 36103.

- ☞ Officers—listing of current committee officers with the function to *update* or perform informational changes
- ☞ Campaign—contains function to *add* an election cycle’s filing schedule
- ☞ Filing Schedule—listing of all reports for an election cycle (includes all FILED reports and REPORTS DUE)

Import Data Files—contains function to *import* data files from other computer applications



## **ADDING REPORTS NOT FOUND IN THE REPORTS DUE LIST**

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The option to add reports not found in the Reports Due list can be accessed in two of the tabbed sections of the online filing system—see OVERVIEW or FILE REPORTS tabbed sections for access to this function. In the top center portion of these section pages, there is a bordered note which reads, “*Need to begin filing reports that are not*”

shown in the Reports Due list below? [click here.](#)” Click the link to begin the process of adding additional reports not listed.



## AMENDING REPORTS

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For necessary amendments that are related to the need to update or delete a posted CONTRIBUTION/OTHER RECEIPT/EXPENDITURE entry, go to the relevant tab and perform the update/deletion activity by accessing the listed transaction in the transaction HISTORY section of the corresponding tabbed section.

Users may add any *omitted* transactions by clicking the add button in the corresponding transaction tabbed section.

Users should make all required additions/deletions/updates to transaction entries prior to amending the previously FILED report. Once that task is completed, go to the FILE REPORTS tab and to the FILING HISTORY section to locate the report, which should be amended due to the changes that were implemented. Click AMEND so that the new adjustments will be populated into the amended report. Click REVIEW to access the amended report. Lastly, click FILE to submit the amended report once you are satisfied that all necessary changes are reflected.

Important— The system will automatically amend any other reports that were affected by an amendment to an individual transaction. The original report remains intact as it was initially filed; to reflect an accurate beginning balance.



## PASSWORD RESET

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If a user is unable to access the account due to an expired or lost PASSWORD/PIN, please call the Elections Division at 334-242-7210 or 1-800-274-8683. To reach the FCPA filing system HELP DESK, call **1-888-864-8910**.



# STATE OF ALABAMA ETHICS COMMISSION



MAILING ADDRESS  
P.O. BOX 4840  
MONTGOMERY, AL  
36103-4840

STREET ADDRESS  
RSA UNION  
100 NORTH UNION STREET  
SUITE 104  
MONTGOMERY, AL 36104

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Thomas B. Albritton  
Director

TELEPHONE (334) 242-2997  
FAX (334) 242-0248  
WEB SITE: [www.ethics.alabama.gov](http://www.ethics.alabama.gov)

August 5, 2015

TO: ALL MUNICIPAL ELECTION OFFICIALS:

Act 2015-495 signed by Governor Bentley on June 12, 2015 and effective September 1, 2015, amended the Alabama Ethics Act, more specifically, Section 36-25-15 (a)(b) regarding filing of and verification of compliance for Statement of Economic Interests forms by a candidate:

*“(a) Candidates at every level of government shall file a completed statement of economic interests for the previous calendar year with the State Ethics Commission **simultaneously** with the date such candidate files his or her qualifying papers with the appropriate election official or in the case of an independent candidate, the date the person complies with the requirements of Section 17-9-3...”*

The above change no longer allows a candidate to file his/her original Statement of Economic Interests form with your office to forward to the Ethics Commission. The form must be filed with our office first.

*“(b) Each election official who receives a declaration of candidacy or petition to appear on the ballot for election from a candidate shall, within five days of the receipt, notify the commission of the name of the candidate, as defined in the chapter, and the date on which the person became a candidate. The commission shall, within five business days of receipt of such notification, notify the election official whether the candidate has complied with the provisions of this section.”*

With this new requirement, your point of contact with this office will be Barbi Lee, Chief of Finance & Administrative Division. Please send your lists directly to her, she and her staff will verify the list of candidates, and return your list back to you with certification of compliance of your candidates.

Municipal Election Officials  
August 5, 2015  
Page 2

It is our goal to help you as much as possible during this election cycle. If you have additional questions, please contact our office at 334.242.2997.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas B. Albritton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Thomas B. Albritton  
Executive Director

**AFFIDAVIT OF INDIGENCY**

STATE OF ALABAMA

JEFFERSON COUNTY

CITY OF MOUNTAIN BROOK, ALABAMA

I, the undersigned, being first duly sworn and depose and say that I am a citizen of the City of Mountain Brook in said County, and reside at

\_\_\_\_\_ in said City; that I desire to become a candidate for the office of \_\_\_\_\_ in said City for the term of \_\_\_\_\_ years at the election of such office to be held on Tuesday, August 23, 2022, and at a runoff election, if necessary, to be held on Tuesday, September 20, 2022; that I am indigent and financially unable to pay the qualification fee established to become a candidate for such office and hereby request a waiver of this fee pursuant to Ordinance 976 of the City of Mountain Brook, Alabama, and I hereby request that my name be printed upon the official ballot at said election.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed

Subscribed and sworn to before me said  
\_\_\_\_\_ on this  
\_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Signature

## IMPORTANT CANDIDATE INFORMATION

TO: Candidates Qualifying for Elected Office  
 RE: Filing of Statements of Economic Interests

The Alabama Ethics Law requires that **candidates for elected office at every level of government file a Statement of Economic Interests with the appropriate election official** (i.e., political party, probate judge, or municipal clerk) **simultaneously with the date he or she becomes a candidate**. Such election official then has five days in which to forward the Statement of Economic Interests to the Commission. **Failure to file your Statement of Economic Interests simultaneously with your qualifying papers could result in your name being removed from the ballot**. Please be careful to see that you comply with this section of the law or you may be disqualified as a candidate.

Pertinent sections of the Ethics Law are as follows:

Section 36-25-15(a), Code of Alabama, 1975, provides:

*“(a) Candidates at every level of government shall file a completed statement of economic interests for the previous calendar year with the appropriate election official simultaneously with the date he or she becomes a candidate as defined in Section 17-22A-2 or the date such candidate files his or her qualifying papers with the appropriate election official, whichever date occurs first. Such election official shall within five days forward the statement of economic interests of the candidate to the commission. **Nothing in this section shall be deemed to require a second filing of the person’s statement of economic interests if a current statement of economic interests is on file with the commission.**” (Emphasis added)*

A Statement of Economic Interests shall be completed and filed in accordance with this chapter with the commission no later than April 30 of each year covering the period of the preceding calendar year . . . *Section 36-25-14(a)*.

Section 36-25-15(c), Code of Alabama, 1975, provides:

*“(c) Other provisions of the law notwithstanding, if a candidate does not submit a statement of economic interests in accordance with the requirements of this chapter, the name of the person shall not appear on the ballot and the candidate shall be deemed not qualified as a candidate in that election. Notwithstanding the foregoing, the commission may, for good cause shown, allow the candidate an additional five days to file such statement of economic interests. If a candidate is deemed not qualified, the appropriate election official shall remove the name of the candidate from the ballot.”*

Section 36-25-6, Code of Alabama, 1975, Use of Contributions, provides:

*“Contributions to an office holder, a candidate, or to a public official’s inaugural or transitional fund shall not be converted to personal use.”*

In the event that you have any questions, please contact the Alabama Ethics Commission at 334-242-2997.





This Form May Be Completed Online at [www.ethics.alabama.gov](http://www.ethics.alabama.gov)

**ALABAMA ETHICS COMMISSION - 334.242.2997**  
 100 N. Union Street, Suite 104 (RSA Union) 36104 - P O Box 302300, Montgomery, AL 36130-2300

## STATEMENT OF ECONOMIC INTERESTS

Instructions are available on our website.

FOR 2021 CALENDAR YEAR-TO BE FILED NO LATER THAN April 30, 2022, **EXCEPT FOR CANDIDATES**, who must file with the Ethics Commission not more than five days after qualifying papers are filed as required by Section 36-25-15, Code of Alabama, 1975.

**CANDIDATE INFORMATION**

Are you a Candidate for public office?                     YES                     NO

For which agency type are you a Candidate?                     State                     County                     Municipality

Which agency? \_\_\_\_\_

1. Full Name, Home Address and Telephone Number of Filing Person:

LAST	FIRST	MIDDLE	SUFFIX	E-MAIL ADDRESS
STREET (NO PO BOXES)	CITY	ZIP	COUNTY	BUSINESS PHONE

2. Last year, I was an  elected official  appointed official  employee  none (CHECK ALL THAT APPLY) with the  
 State                     County                     Municipality

THE NAME of my agency/agencies was \_\_\_\_\_

3. Did you work for compensation in any position other than your public position?                     YES                     NO  
 If yes, was more than 1/3 of your working time spent in that position?                     YES                     NO  
 If yes, list the occupation(s) \_\_\_\_\_

4. Did your spouse work for compensation in any position?                     YES                     NO  
 If yes, was more than 1/3 of your working time spent in that position?                     YES                     NO  
 If yes, list the occupation(s) \_\_\_\_\_

5. What is your total household income?     \$10,000 to \$49,999     \$50,000 to \$149,999     \$150,000 to \$249,999     More than \$250,000

**6. INFORMATION ON FAMILY MEMBERS**

**SPOUSE** - Name, Address, Employer or Business Name

**DEPENDENTS** - (please indicate if dependent is over 19) Name(s), Address and Any Employment

**LIVING ADULT CHILDREN** - Name(s) Only

**PARENTS** (Living and Deceased) - Name(s) Only

**LIVING SIBLINGS** - Name(s) Only

**LIVING PARENTS OF SPOUSE** - Name(s) Only

**7. OTHER INCOME INFORMATION FOR YOU, YOUR SPOUSE AND DEPENDENT CHILDREN**

<b>LIST EVERY BUSINESS WHERE YOU OR YOUR SPOUSE RECEIVED INCOME in Salary, Fees, Dividends, Profits, Commissions, Bank Interest, or Other Compensation from any private business</b>	<b>Check Appropriate Box</b>					
<b>NAME OF BUSINESS</b>	<b>Less than \$1,000</b>	<b>\$1,000 to \$9,999</b>	<b>\$10,000 to \$49,999</b>	<b>\$50,000 to \$149,999</b>	<b>\$150,000 to \$249,999</b>	<b>More than \$250,000</b>
1						
2						
3						
4						
5						
6						

8. **Last year**, did you, your spouse, or dependents, individually or combined, own 5% or more of the stock in a business? \_\_\_\_ YES \_\_\_\_ NO

If so, what is the name of the business(es)? \_\_\_\_\_

9. **Last year**, did you, your spouse, or dependents serve as an officer, director, trustee, or consultant in a business? \_\_\_\_ YES \_\_\_\_ NO  
 Did that service result in income of \$1,000 or more? \_\_\_\_ YES \_\_\_\_ NO  
 If so, provide the name of the business(es) \_\_\_\_\_  
                   \_\_\_\_\_ \$1,000 to \$4,999  
                   \_\_\_\_\_ \$5,000 or more

10. **INDEBTEDNESS INFORMATION:** Report debts owed to all businesses operating in Alabama\*\* as of December 31<sup>st</sup> of the reporting year. \*\*Doing Business in Alabama, regardless of where the home office is located or where you mail your payment.  
**DO NOT INCLUDE** indebtedness associated with **HOMESTEAD** - the home in which you live.

**DO NOT list Debtor's Names or Accounts Numbers.**

INDEBTNESS TYPE	How MANY do you OWE?	INDEBTNESS TYPE	How MANY do you OWE?
BANKS (Include Credit Cards)		STOCKBROKERS or BOND FIRMS	
CREDIT UNIONS and SAVINGS and LOAN ASSOCIATIONS (Include Credit Cards)		OTHER BUSINESSES Include Store Credit Cards	
INSURANCE COMPANIES		STUDENT LOANS	
MORTGAGE FIRMS			

What is the **COMBINED AMOUNT** of indebtedness to all of the above? Please check one.

\_\_\_ Less than \$25,000 \_\_\_ \$25,000 to \$49,999 \_\_\_ \$50,000 to \$99,999 \_\_\_ \$100,000 to \$149,999 \_\_\_ \$150,000 to \$249,000 \_\_\_ \$250,000 or more

11. **PROFESSIONAL OR CONSULTING SERVICES:** Complete this Section **ONLY** if **YOU** or **YOUR SPOUSE** engaged in a business that provides any of the following services:

Legal	Medical or health related
Real estate	Banking
Insurance	Educational
Farming	Engineering
Architectural management	Other professional services or consultations

Check if No Income was received for Professional or Consulting Services for the Categories of Clients shown below

State the NUMBER OF CLIENTS and CHECK Corresponding Income and/or Retainer Income

Categories of Clients	Number of Clients	Annual Gross Income During Reporting Year								Anticipated Annual Retainer Income		
		Less than \$1,000	\$1,000 to \$10,000	\$10,000 to \$25,000	\$25,000 to \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000	Less than \$1,000	\$1,000 to \$5,000	More than \$5,000
<b>UTILITIES</b>												
Electric												
Gas												
Telephone												
Water												
Cable Television Companies												
<b>TRANSPORTATION</b>												
Intrastate Companies												
Pipeline Companies												
Oil Exploration												
Gas Exploration												
Oil and Gas Retailers												



Categories of Clients	Number of Clients	Annual Gross Income During Reporting Year								Anticipated Annual Retainer Income		
		Less than \$1,000	\$1,000 to \$10,000	\$10,000 to \$25,000	\$25,000 to \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	More than \$250,000	Less than \$1,000	\$1,000 to \$5,000	More than \$5,000
<b>GOVERNMENT</b>												
State												
County												
Municipal												
Other Government Corporations or Authorities												

**12. REAL ESTATE HOLDINGS - DO NOT INCLUDE HOMESTEAD**

**\*\*\*TO BE COMPLETED ONLY BY ELECTED OFFICIALS, APPOINTED OFFICIALS AND ALL CANDIDATES\*\*\***

Did YOU, YOUR SPOUSE or DEPENDENTS own real estate for investment or revenue production last year?

\_\_\_\_\_NO      \_\_\_\_\_YES      **If YES, list each property below and provide requested information.**

Location of Real Estate	What is the Fair Market Value?					What is the Annual Gross Rent/Lease Income		
	City, County, State	Less than \$50,000	\$50,000 to \$99,999	\$100,000 to \$149,999	\$150,000 to \$249,999	More than \$250,000	Less than \$10,000	\$10,000 but less than \$50,000

Add additional sheets as necessary

13. If you are **PUBLIC OFFICIAL**, did **YOU** or **A BUSINESS WITH WHICH YOU ARE ASSOCIATED** receive rent or lease income from **ANY GOVERNMENTAL AGENCY IN ALABAMA** last year?

\_\_\_\_\_NO                      \_\_\_\_\_YES

**If YES, specific details of the lease or rent agreement shall be filed with the Alabama Ethics Commission.**

**DECLARATION OF REPORTING PERSON**

I have read and completed this Statement of Economic Interests Form, and do swear (or affirm) that the information contained in said Statement of Economic Interests is true and correct. I fully understand that anyone who violates the disclosure provision of this Act shall be subject to a fine of \$10.00 per day, up to \$1,000 annually. I also understand that any attachments that I place with this form become a part of this public record.

\_\_\_\_\_  
Signature of Reporting Person

\_\_\_\_\_  
Date

\_\_\_\_\_  
PRINTED NAME of Reporting Person

**\*\*\*Forms Received by FAX or Email will NOT be Accepted\*\*\***

RETURN COMPLETED, ORIGINAL SIGNED FORM TO:

**Alabama Ethics Commission**



**RSA Union**

**P O Box 302300**

**100 N Union Street, Suite 104**

**Montgomery, AL 36130-2300**

**Montgomery, AL 36104**

Revised January 2022

**LINE-BY-LINE INSTRUCTIONS FOR COMPLETING THE  
DOWNLOADABLE STATEMENT OF ECONOMIC INTERESTS FORM**

The Legislature feels for matters of the public trust, certain individuals should be required to file Statements of Economic Interests, disclosing potential conflicts of interest. These financial disclosures do not violate the United States Constitution and do not intrude on the employee's financial privacy. While the list of job responsibilities set out in Section 36-25-14 is not all-inclusive, it does give a great deal of guidance. In addition, Section 36-25-2(c) states that: "*This chapter shall be liberally construed to promote complete disclosure of all relevant information and to insure that the public interest is fully protected.*"

There may be sections of this form that do not apply to you personally, but this form was created to best apply to over 50,000 public officials, public employees, candidates for public office, and members of boards, commissions, committees, authorities, councils, etc.

**If you received this form or instructions for downloading from your employer, your name has been submitted to the Alabama Ethics Commission as being required to file for the previous year.** Public officials and public employees who are required to file annual Statements of Economic Interests may be fined \$10.00 per day not to exceed \$1,000.00 for failure to timely file a Statement of Economic Interests with the Ethics Commission, or be charged with a Class A misdemeanor for intentional failure to file [36-25-14(d) & (e)]. Each person who meets the necessary criteria, regardless of whether they retired the previous year or served/worked in the public position **for any time (even a portion of one day) during the previous year**, is required to file.

## General Information

Top of form: Candidate Information: **Are You a Candidate?** Circle Yes or No (REQUIRED) **For Office In** - Check City, County, or State Check Entity Type (REQUIRED IF ABOVE ANSWER IS YES) **For Office Of** Write in Name of Office for which you are a Candidate.

Law Enforcement Information: **Are you in Law Enforcement?** Circle Yes or No (REQUIRED) If you circled NO, continue to Question 01.

**If**

**you circled Yes, Check the appropriate Classification of Law Enforcement.**

01. REQUIRED FIELDS - Print your entire name, beginning with your Last Name, and include your nickname, if applicable. Print your entire home address and include your business phone number only.
02. REQUIRED FIELDS - Circle appropriate designation elected official, appointed official, employee. Circle appropriate public entity with which you are associated. Print the name and address of your public position.
- 02.1 REQUIRED FIELDS - Circle appropriate designation elected, appointed, official, employee. Print your job title/position for your public employment or office held during the reporting year.
- 02.2 REQUIRED FIELD OR N/A - Print the name of any **other** public authority (board, commission, committee, authority, council) of which you were a member during the reporting year.
- 02.3 REQUIRED FIELD - Circle the amount that applies to your earnings in 02. through 02.2



03. REQUIRED FIELD OR N/A - Print the name of the position(s) in which you or your spouse spent 1/3 or more of your time or your spouse's time, whether public or private, other than the aforementioned public position(s) in 02.2.
- 03.1 REQUIRED FIELDS OR N/A - Print the name and address of the business associated with the position mentioned in 03. above. (Print name and address of self-employment in line 03.)
- 03.2 REQUIRED FIELD OR N/A - If the position mentioned in 03. was associated with self-employment, print the name and address of that business.
- 03.3 REQUIRED FIELD - Circle the appropriate amount of earnings as listed in the employment specified in 03. This is employment for you, your spouse and dependents **other than** compensation for your public position.
- 03.4 REQUIRED FIELD OR N/A - Circle the appropriate response if you, your spouse, or your dependent(s) owned 5% or more stock in the company listed in 03.1 and/or 03.2.
- 03.5 REQUIRED FIELD OR N/A - Circle the applicable response if your spouse or you were a consultant and earned more than \$1,000 from the business(es) listed in 03.1 and/or 03.2.
- 03.6 REQUIRED FIELD OR N/A - Circle the appropriate response if you and/or your spouse served as an officer/director/trustee of the business listed in 03.1 and/or 03.2.

**Information on Family Members**

04. REQUIRED FIELDS - Print your spouse's name, address and occupation/business. Print additional family members' names where applicable.

**Other Income**

05. through 05.4 - REQUIRED FIELDS OR N/A

Other than previously mentioned income, list all income such as stocks, fees, dividends, profits, commissions and interest, including interest on bank accounts. Also, include any income or salary in which you spent any amount of time earning but have not listed thus far.

In the first column print the name of the employer, bank, stock, etc. from which the income was derived. In the second column, list the type of income, i.e. interest. In the following columns, check the column with the appropriate amount listed. Add attachments as necessary.

- 05.1 REQUIRED FIELD OR N/A - Circle the appropriate designation where you earned more than \$5,000 for one of the incomes mentioned in 05.
- 05.2 REQUIRED FIELD OR N/A - Circle the appropriate designation where you earned more than \$1,000 but less than \$5,000 for one of the incomes mentioned in 05.
- 05.3 REQUIRED FIELD OR N/A - If you, your spouse or one of your dependents served as an officer, director, trustee or consultant last year in one of the businesses from which you received income listed in 05., circle the appropriate designation.

- 05.4 REQUIRED FIELD OR N/A - List any business or subsidiary thereof listed above in which you, your spouse or your dependents jointly or severally owned 5% or more stock and/or served as an officer during the reporting year.

### Real Estate Holdings

06. This section should be completed **ONLY** by **elected officials, appointed officials or candidates for office**. **DO NOT include your homestead**. Skip this section and go to 07., if you are **NOT** an elected or appointed official or a candidate for office.
- 06.1 If you checked **YES** that you, your spouse and/or your dependents owned real estate **for investment** during the reporting year, list each piece below and check the appropriate boxes. Add attachments as needed.
- 06.2 If you checked **YES**, list any and all **rent/lease income from any government agency in Alabama** that you, your spouse or your dependents received during the reporting year. Also, the detailed lease/rent agreement shall be filed with the Ethics Commission.

### Indebtedness Information

07. Report debts owed to all businesses operating in Alabama\*\* **as of December 31** of the reporting year. Include debts for **YOU, YOUR SPOUSE and DEPENDENT CHILDREN**.  
**\*\*Doing business in Alabama, regardless of where their home office is located or where you mail your payment.**

In the column **"How many do you OWE?"** provide the actual **number** of companies with outstanding balances at the **end of reporting year** and Check the corresponding **COMBINED Dollar Amount** owed. (i.e., if you, your spouse or dependents owe \$25,000 to each of 5 banks, check the \$100,000 or more block.)

**DO NOT INCLUDE** indebtedness associated with your **homestead** (residence/home) in which you live.

- 07.1 REQUIRED FIELD OR N/A - Include the number of banks, including credit cards where you, your spouse or your dependents have indebtedness.
- 07.2 REQUIRED FIELD OR N/A - Include the number of credit unions and savings and loan associations in which you, your spouse or your dependents have indebtedness and include credit cards, if any.
- 07.3 REQUIRED FIELD OR N/A - Include the number of insurance companies where you, your spouse or your dependents have indebtedness.
- 07.4 REQUIRED FIELD OR N/A - Include the number of mortgage companies, **except your homestead**, where you, your spouse or your dependents have indebtedness.
- 07.5 REQUIRED FIELD OR N/A - Include the number of stockbrokers and/or bond firms where you, your spouse or your dependents have indebtedness.
- 07.6 REQUIRED FIELD OR N/A - Include the number of individuals and/or any other businesses, including store cards, where you, your spouse or your dependents have indebtedness.
- 07.7 REQUIRED FIELD OR N/A - Include the number of student loans in which you, your spouse or your dependents have indebtedness.

08. Complete this section **ONLY** if you or your spouse received income during reporting year for **professional or consulting activities**, (i.e., legal, accounting, medical or health-related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services or consultations).

List the number of clients in the appropriate areas and check the dollar amount (range) received. **If this section DOES NOT apply to you, check the appropriate box, skip this section and go to 09.**

**Declaration of Reporting Person**

09. Read the declaration, sign your full name, include the date signing, and **legibly print** your full name.

Mail your completed form to the Alabama Ethics Commission to the address on the first page.

**CANDIDATE INFORMATION VERY IMPORTANT**

Section 36-25-15 requires candidates at every level of government to file a completed Statement of Economic Interests form for the previous calendar year with the appropriate election official simultaneously with the date he or she becomes a candidate as defined in Section 17-22A-2, Code of Alabama, 1975, or the date such candidate files his or her qualifying papers with the appropriate election official, whichever date occurs first. Failure to comply with this section will result in the candidate being deemed not qualified, and their name being removed from the ballot. (36-25-15(c)).

# APPLICATION FOR MUNICIPAL ABSENTEE BALLOT

FORM AV-M1  
Date Revised 07/23/2019

Return this application to: Heather Richards, City Clerk  
City of Mountain Brook  
56 Church Street  
Mountain Brook, AL 35213

City of Mountain Brook, Jefferson COUNTY, ALABAMA

Please note that only one application may be placed in the same envelope.

**Please note that a copy of your valid photo identification must be submitted along with this application.**

**General Voter Information - Please provide complete information so that we may verify your eligibility to vote.**

Last Name (Please print)		First Name		Middle or Maiden Name		E-mail Address	
Street Address (address where you are registered to vote; do not use PO box)						City	ZIP
Mail my ballot to the address where I regularly receive mail, if different from the street address provided above							
Precinct where you vote (name and/or location of your polling place)							
Date of Birth		Month	Day	Year	Driver's License Number		IF NO DRIVER'S LICENSE NUMBER
Home Telephone Number ( )		Work Telephone Number ( )		STATE		NUMBER	
						Last 4 digits of Social Security number	

**For all registered voters**

I hereby make application for an absentee ballot so that I may vote in the following election:

- Municipal Election August 23, 2022
- Special Municipal Election (specify) \_\_\_\_\_
- Municipal Runoff Election

**Absentee ballots for municipal elections more than 42 days apart must be requested on separate applications**

I am applying for an absentee ballot because (check at least one box):

- I expect to be out of the county or the state on election day.
- I have a physical illness or infirmity which prevents my attendance at the polls. *[ID Required]*
- \*I have a physical illness or infirmity which prevents my attendance at the polls. I am unable to access my assigned polling place due to a neurological, musculoskeletal, respiratory (including speech organs), cardiovascular, or other life-altering disorder that affects my ability to perform manual tasks, stand for any length of time, walk unassisted, see, hear or speak and:
  - a) I am an elderly voter aged 65 or older; or
  - b) I am a voter with a disability.*\*[ID Not Required]*
- I expect to work a shift which has at least ten (10) hours that coincide with the polling hours at my regular polling place.
- I am enrolled as a student at an educational institution located outside the county of my personal residence, attendance at which prevents my attendance at the polls.
- I am a member of, or a spouse or dependent of a member of, the Armed Forces of the United States or am otherwise similarly qualified to vote absentee pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20302. *[ID Not Required]*

This application for an absentee ballot will be valid for all county, state, and federal elections held during this calendar year unless you specify an earlier expiration date here: \_\_\_\_\_.
- I have been appointed as an election officer at a polling place which is not my regular polling place.
- I am a caregiver for a family member to the second degree of kinship by affinity or consanguinity and the family member is confined to his or her home.
- I am currently incarcerated in prison or jail and have not been convicted of a felony involving moral turpitude. (See back for felonies involving moral turpitude.)

**When I apply for this absentee ballot, I understand that my name will be stricken from the list of qualified electors and, when I cast this absentee ballot, I understand that I will not be entitled to vote at my regular polling place.**

Voter's Signature	<b>Complete this section if voter signs by mark</b> →	Witness Signature
		Print Witness Name

The voter may hand this application to the Absentee Election Manager. The voter may also forward this application to the Absentee Election Manager by U.S. Mail or commercial carrier [§17-11-3 and §17-11-4, Code of Alabama, 1975].

**READ PENALTIES ON BACK**

## Pursuant to Code of Alabama (1975) Section 17-3-30.1

- Murder – Section 13A-5-40 (A) 1-19
- Murder (Non-Capital, Reckless, Felony Murder, etc.) – Section 13A-6-2
- Manslaughter – Section 13A-6-3 Exceptions: 13A-6-20 (A) (5) and 13A-6-21
- Assault 1st Degree – Section 13A-6-20
- Assault 2nd Degree – Section 13A-6-21
- Kidnapping 1st Degree – Section 13A-6-43
- Kidnapping 2nd Degree – Section 13A-6-44
- Rape 1st Degree – Section 13A-6-61
- Rape 2nd Degree – Section 13A-6-62
- Sodomy 1st Degree – Section 13A-6-63
- Sodomy 2nd Degree – Section 13A-6-64
- Sexual Torture – Section 13A-6-65.1
- Sexual Abuse 1st Degree – Section 13A-6-66
- Sexual Abuse 2nd Degree – Section 13A-6-67
- Sexual Abuse of a child less than 12 years old – Section 13A-6-69.1
- Enticing a child to enter a vehicle, house, etc. for immoral purposes – Section 13A-6-69
- Facilitating solicitation of unlawful sexual conduct with a child – Section 13A-6-121
- Electronic solicitation of a child – Section 13A-6-122
- Facilitating the on-line solicitation of a child – Section 13A-6-123
- Traveling to meet a child for an unlawful sex act – Section 13A-6-124
- Facilitating the travel of a child for an unlawful sex act – Section 13A-6-125
- Human Trafficking 1st Degree – Section 13A-6-152
- Human Trafficking 2nd Degree – Section 13A-6-153
- Terrorism – Section 13A-10-152
- Soliciting or providing support for an act of terrorism – Section 13A-10-153
- Hindering prosecution of terrorism – Section 13A-10-154
- Endangering the water supply – Section 13A-10-171
- Possession, manufacture, transport, or distribution of a destructive device or bacteriological weapon, or biological weapon – Section 13A-10-193
- Selling, furnishing, giving away, delivering, or distribution of a destructive device, a bacteriological weapon, or biological weapon to a person who is less than 21 years of age – Section 13A-10-194
- Possession, manufacture, transport, or distribution of a detonator, explosive, poison, or hoax device – Section 13A-10-195
- Possession or distribution of a hoax device represented as a destructive device or weapon – Section 13A-10-196 (c)
- Attempt to commit an explosives or destructive device or bacteriological or biological weapons crime – Section 13A-10-197
- Conspiracy to commit an explosives or destructive device or bacteriological or biological weapons crime – Section 13A-10-198
- Hindrance or obstruction during detection, disarming, or destruction of a destructive device or weapon – Section 13A-10-199
- Possession or distribution of a destructive device or weapon intended to cause injury or destruction – Section 13A-10-200
- Treason – Section 13A-11-2
- Dissemination or public display of obscene matter containing visual depiction or persons under 17 years of age involved in obscene acts – Section 13A-12-191
- Possession and possession with intent to disseminate obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts – Section 13A-12-192
- Parents or guardians permitting children to engage in production of obscene matter – Section 13A-12-196
- Production of obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts – Section 13A-12-197
- Distribution, possession with intent to distribute, production of obscene material, or offer or agreement to distribute or produce – Section 13A-12-200.2
- Trafficking in cannabis, cocaine, or other illegal drugs or trafficking in amphetamine and methamphetamine – Section 13A-12-231
- Bigamy – Section 13A-13-1
- Incest – Section 13A-13-3
- Torture or other willful maltreatment of a child under the age of 18 – Section 26-15-3
- Aggravated child abuse – Section 26-15-3.1
- Prohibited acts in the offer, sale, or purchase of securities – Section 8-6-17
- Burglary 1st Degree – Section 13A-7-5
- Burglary 2nd Degree – Section 13A-7-6
- Theft of Property 1st Degree – Section 13A-8-3
- Theft of Property 2nd Degree – Section 13A-8-4
- Theft of Lost Property 1st Degree – Section 13A-8-7
- Theft of Lost Property 2nd Degree – Section 13A-8-8
- Theft of trademarks or trade secrets – Section 13A-8-10.4
- Robbery 1st Degree – Section 13A-8-41
- Robbery 2nd Degree – Section 13A-8-42
- Robbery 3rd Degree – Section 13A-8-43
- Forgery 1st Degree – Section 13A-9-2
- Forgery 2nd Degree – Section 13A-9-3
- Any crime as defined by the laws of the United States or by the laws of another state, territory, country, or other jurisdiction, which, if committed in this state, would constitute one of the offenses listed in this subsection.

## PENALTIES

### §17-17-24, Code of Alabama, 1975, as amended

(a) Any person who willfully changes an absentee voter's ballot to the extent that it does not reflect the voter's true ballot, any person who willfully votes more than once by absentee ballot in the same election, any person who willfully votes for another voter or falsifies absentee ballot applications or verification documents so as to vote absentee, or any person who solicits, encourages, urges, or otherwise promotes illegal absentee voting, shall be guilty, upon conviction, of a Class C felony. Any person who willfully aids any person unlawfully to vote an absentee ballot, any person who knowingly and unlawfully votes an absentee ballot, and any voter who votes both an absentee and a regular ballot at any election shall be similarly punished.

(b) Upon request by the local district attorney or the Secretary of State, the Attorney General shall provide investigating assistance in instances of absentee ballot or voting violations.

(c) Nothing in this section shall be construed to impede or inhibit organized legal efforts to encourage voter participation in the election process or to discourage a candidate from encouraging electors to lawfully vote by absentee ballot.

## **Instructions for taking Absentee Ballots**

**Ballot Application:** Anyone can pick up any number of blank absentee ballot application(s), however only the voter may return the completed application, either in person or by mail. If returned by mail, applications must be returned in separate envelopes.

**Regular Absentee:** Ask will the voter be out of the County on election day, if they are physically incapacitated, in the military, in school outside the county, or work a 10-hour or greater shift that conflicts with the polling hours, or if they are an election official at a polling location other than their own, then they can vote an absentee ballot either in person or through the mail. The last day to apply for an absentee ballot is five days prior to the election date, except for emergency absentee ballots.

**Business Emergency:** A business emergency absentee ballot is available if the voter is called out of town on a business emergency, and was not aware of this emergency five days prior to the election. There is a box on the application to mark indicating this, and the application must be signed and sworn. The emergency business ballot must be completed and returned in person not later than 5:00 p.m. on the day prior to the election.

**Medical Emergency:** An emergency medical application can be obtained by the voter or by his/her designee. The proper box must be marked and it must be signed by the voter and by the attending physician, and also signed by the person designated to deliver the ballot for the voter. (This might happen with an emergency hospital admission, or when the voter is notified after the application cut of date that surgery is scheduled within four days prior to or on election day.) The emergency medical ballot must be returned in person by the designee not later than noon on election day.

2. If the voter knows that they will be out of the County on both the general election day and the runoff election day, they may indicate this on one application since the elections are not more than 42 days apart. The ballots for the general and runoff elections will be sent at the proper time when candidates are known.

### **Walk-in Absentees**

- A. Make sure the name is on the absentee voter list or verify a recent registration by calling the Jefferson County Board of Registrars at 325-5550 or the St. Clair County Board of Registrars at 594-2126. If the voter has registered recently, they may not be on the list. The Board of Registrars will fax you something showing they are registered. Write it in on the list and mark it as absentee.
- B. Give them an absentee ballot application. (They may pick up as many applications as they wish, but each application must be returned in person by the voter himself or through the mail with only one application per envelope.)
- C. Once you have the signed application returned to you, find the name on the voter list and underline it (I use red) or highlight it and put the date and “Absentee” in the margin by the name.

- D. Add the name to the list of persons who have requested absentee ballots that is posted daily at City Hall for the correct county. (Include Name, Address, & Polling place)
- E. Retrieve the next numerical ballot [*single type of ballot for “at large” municipalities or specific ballot for each district in districted municipalities*] (these must be issued in order and every number accounted for – Do not leave ballots out on counter). Write the Ballot Style and Ballot Number on the front of the Affidavit (AB2) envelope. (This information is found at the bottom of the ballot.) Hand the voter the instructions, the ballot, the secrecy envelope (AB4), the affidavit envelope (AB2), and the brown return envelope.
- F. Ask if you need to copy their identification, and give original ID and the copy back to them. (This is done at no charge for the copy.)
- G. The voter may fill out the ballot and hand it back, or may take it with them. Once the ballot is completed, have the voter fold the ballot in half once (**and only once**) from top to bottom so that it will fit into the Secrecy Envelope (AB4) and the voter must seal the envelope. Envelope AB4 is then inserted into the Affidavit Envelope (AB2). The voter must seal that envelope and complete the affidavit on the back, sign it, and have it witnessed by a notary or two witnesses.  
NOTE: I keep an envelope sealer bottle at the counter for voters to use to seal the ballot envelopes.
- H. Sealed envelope A-B2 (Affidavit Envelope) and the voter identification is placed in the manila envelope (brown) and sealed. If you happen to observe the voter putting the ID in the wrong envelope, make another copy to put in the manila (brown) one, as the secrecy and affidavit envelopes cannot be opened.
- I. The voter will then hand the sealed manila envelope (brown) back to you. Find the voter’s name on the posting list of persons voting absentee, and mark it received and the date in the margin.
- J. Make sure the identification is enclosed (Open brown envelope to check). If not, see instructions below.
- K. Place the ballot in the secure box in the vault.

If the voter messes up a ballot and requests another one, take back the first ballot and disable it by tearing off the corner, and place it in the Spoiled Ballot envelope. Change the ballot number on the front of the AB2 envelope to the new ballot number. Do not throw any ballot away – all must be accounted for.

### **Mailed Absentees**

- A. Mail the absentee ballot application to voter.
- B. Upon receipt of the completed application, **strike the voter's name from the absentee poll list (underline in red or highlight) and write in the margin - Absentee and the date.** Write the ballot style number and the ballot number on the front of Envelope AB2 (Affidavit Envelope) and write the voters name in the upper left hand corner of the manila envelope. Then place the ballot, the absentee voting instructions, voter identification instructions, Envelope AB4 (Secrecy Envelope), Envelope AB2 (Affidavit Envelope), and the manila envelope, in the large white mailing envelope, affix proper postage and mail within 24-hours of receipt of the completed application.
- C. Add the voter's name to the Absentee list posted for that day for the correct county.
- D. Upon receipt of a completed ballot, mark received and the date on the posted list of persons voting absentee.
- E. Open the brown envelope and make sure the voter identification is enclosed. If voter identification is not enclosed, see "No Voter Identification" instructions below.
- F. Place the ballot in the secure box in the vault.

### **Provisional Absentee Ballots**

- A. If the person's name is not on the voter list, or not on the voter list at the address provided on the application, and cannot be verified by the Board of Registrars, mark the word "Provisional" on the affidavit envelope (AB2) before mailing the provisional absentee ballot (absentee ballot with the upper left hand corner either cut or torn off ) and other provisional absentee materials to the applicant. (I write "Provisional" on both sides of the envelope.)
- B. Fill out sections 1, 2, and 3 of the PB-3 Provisional Verification Statement. In section 2, put Absentee and the date and line number. With the provisional absentee ballot (see above), ballot instructions, AB4 secrecy envelope, AB2 affidavit envelope, and mailing manila (brown) envelope enclose a written explanation as to why the ballot is provisional, with instructions for completing the provisional forms (in drawer):
  - 1. Provisional absentee instructions - Form 2
  - 2. PB-3 Provisional Verification Statement which includes voter re-identification form at bottom
  - 3. Instructions to Absentee voters (how to mark the ballot) from absentee supplies with list of valid voter ID types on back



4. Provisional absentee ballot (see above)
  5. Secrecy Envelope AB-4
  6. Affidavit Envelope AB-2 marked “Provisional”
  7. Mailing envelope (brown)
- C. Add name to Provisional Absentee posting list (pink) for the correct county.
  - D. When a provisional ballot and materials are returned by the voter, check to see if identification is enclosed. If not, notify the voter as set out below on Form 1 that begins – Attention Absentee Voter: Your absentee ballot has been received by the Absentee Elections Manager, but proper voter identification has not been provided.  
NOTE: Even though the vote is already provisional, if there is no ID, you still must notify them of that fact.
  - E. Secure the affidavit envelope AB-2 marked “Provisional” in a provisional ballot return envelope (PB-4A).
  - F. Place the PB-2A Provisional Ballot Return envelope in the Provisional Absentee Ballot box for the correct county.
  - G. Place the PB-3 Provisional Verification Statement in envelope PB-4A Absentee Provisional Return envelope by correct county. (Do not seal PB-4A envelope until all PB-3 provisional ballots are returned.)

### **No Voter Identification**

Written notice must be sent prior to the election on how to correct the omission, or what happens if identification is not provided and the vote becomes provisional. There is a form designated as Form 1 that begins as follows: Attention Absentee Voter: Your absentee ballot has been received by the Absentee Elections Manager, but proper voter identification has not been provided.

Note on the outside of the envelope the ballot was returned in, that you notified the voter of no identification and the date and initial it.

Hold this ballot until Friday at 5:00 on the Friday preceding the election. If ID is returned, place the ballot with the other absentee ballots. If ID is not returned, process as a provisional absentee and place ballot marked “Provisional” on the affidavit envelope, in the Provisional Absentee ballot box. Fill out Sections 1, 2, & 3 of PB-3 Provisional Verification Statement, noting “Absentee Ballot” in section 2, and place in PB-4A Provisional Return envelope.

Election Systems & Software, Inc.  
P.O. Box 1807  
Birmingham, Alabama 35201

1-800-292-4679  
FAX 1-205-940-2174

# STATEMENT OF CANDIDACY

"State of Alabama, Jefferson County, I, the undersigned, being first duly sworn, depose and say that I am a citizen of the city ~~(town)~~ of Mountain Brook, Alabama, in said county, and reside at \_\_\_\_\_, in said city (town); that I have been or will have been on the date of the municipal election a resident of said city (or town) for a period of not less than 90 days; that I desire to become a candidate for the office of City Council Place No. in said city ~~(or town)~~ for the term of five (5) years at the election for such office to be held on the 23th day of August, 20 22; that I am duly qualified or will be so qualified to hold said office if elected thereto and I hereby request that my name be printed upon the official ballot at said election.

"Signed \_\_\_\_\_

OFFICE RUNNING FOR City Council

WARD, DISTRICT OR PLACE NO. \_\_\_\_\_

**CANDIDATE'S NAME AS IT SHALL APPEAR ON THE BALLOT** \_\_\_\_\_

(PRINT PLEASE)

- NO NAMES MAY BE PRECEDED BY A TITLE OR NICKNAME.
- NICKNAMES MAY BE INSERTED BETWEEN THE FIRST NAME OR INITIAL AND THE LAST NAME.

"Subscribed and sworn to before me by said \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_, 20 22. \_\_\_\_\_ (Time)

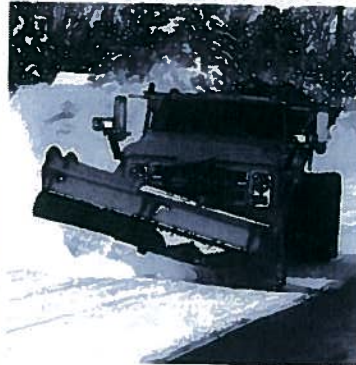
\_\_\_\_\_  
Notary Public "(Mayor) \_\_\_\_\_"

\_\_\_\_\_  
My Commission Expires "(Clerk) \_\_\_\_\_"

"THIS AFFIDAVIT IS IN ACCORDANCE WITH SECTION 11-46-25."

# Council-Manager

## Form of Government



Frequently Asked  
Questions

**ICMA** *Leaders at the Core of Better Communities*

### **What is the council-manager form of government, which is used today by so many cities, towns, and counties?**

Council-manager government combines the strong political leadership of elected officials with the strong managerial experience of an appointed manager or administrator. All power and authority to set policy rests with an elected governing body, which includes a mayor or chairperson and members of the council, commission, or board. The governing body in turn hires a nonpartisan manager who has very broad authority to run the organization.

Born out of the U.S. progressive reform movement at the turn of the 20th century, the council-manager system was designed to combat corruption and unethical activity in local government by promoting effective management within a transparent, responsive, and accountable structure.

Since its establishment, the council-manager form has become the most popular structure of local government in the United States. The form is also widely used throughout the world in countries such as Canada, Australia, the Netherlands, New Zealand, and the United Kingdom.

### **How does council-manager government work?**

The elected council or board represent their community and develop a long-range vision for its future. They establish policies that affect the overall operation of the community and are responsive to residents' needs and wishes.

To ensure that these policies are carried out and that the entire community is equitably served, the governing body appoints a *highly trained professional manager* on the basis of his/her education, experience, skills, and abilities (and not their political allegiances). If the manager is not responsive to the governing body, it has the authority to terminate the manager at any time.

### **How can council-manager government benefit my community?**

A city, town, or county benefits from the council-manager form of government in a number of important ways:

1. Political power is concentrated in the *entire* governing body. The mayor and council share legislative functions
2. Policy making resides with elected officials, while oversight of the day-to-day operations of the community resides with the manager. In this way, the elected officials are free to devote time to policy planning and development

3. The manager carries out the policies established by the elected governing body with an emphasis on effective, efficient, and equitable service delivery
4. Because decisions on policy and the future of the community are made by the entire governing body rather than a single individual, council-manager governments more often engage and involve their residents in decision making. Residents guide their community by serving on boards and commissions, participating in visioning and strategic planning, and designing community-oriented local government services
5. The form is flexible enough to adapt to local needs and demands. For example, some communities elect their councils at large, while others elect them by district or by a combination of an at-large-and-by-district system. Also, the mayor can be directly elected by voters or selected by and from among the council.

**What is the role of the manager under council-manager government?**

The manager is hired to serve the council and the community and brings to the local government the benefits of his/her training and experience in administering municipal or county projects and programs. The manager prepares a budget for the council's consideration; recruits, hires, terminates, and supervises government staff; serves as the council's chief advisor; and carries out the council's policies. Council members and residents count on the manager to provide complete and objective information about local operations, discuss the pros and cons of alternatives, and offer an assessment of the long-term consequences of their decisions.

Appointed managers serve at the pleasure of the governing body. They can be fired by a majority of the council, consistent with local laws, or any employment agreements they may enter into with the council. The manager makes policy recommendations to the council for consideration and final decision. The manager is bound by whatever action the council takes, and control is always in the hands of the elected representatives of the people.

**What is the role of the council?**

The council is the community's legislative and policy-making body. Power is centralized in the elected council, which, for example, approves the budget and determines the tax rate. The council also focuses on the community's goals, major projects, and such long-term considerations

as community growth, land use development, capital improvement and financing, and strategic planning. The council hires a professional manager to implement the administrative responsibilities related to these goals and supervises the manager's performance.

**What is the role of the mayor or chairperson?**

Mayors or chairpersons in council-manager communities are key political and policy leaders, and their specific duties, responsibilities, and authorities depend on the organization's charter. In council-manager communities, typically the mayor or chairperson is a voting member of the city council who presides at council meetings, represents the city in intergovernmental relationships, appoints members of citizen advisory boards and commissions (with the advice and consent of council), assigns agenda items to committees, facilitates communication and understanding between elected and appointed officials, and assists the council in setting goals and advocating policy decisions.

**What value does a professional manager contribute to a community?**

Professional managers contribute value to a community because they:

- Work in partnership with elected officials to develop sound approaches to community challenges by bringing together resources to make the right things happen and produce results that matter
- Bring a community-wide perspective to policy discussions and strive to connect the past and future while focusing on the present. They help the governing body develop the long-term vision for the community that provides a framework for policy development and goal setting
- Promote ethical government through commitment to a set of ethical standards that goes beyond those required by law. Managers who are members of ICMA subscribe to the organization's Code of Ethics, which requires them to "affirm the dignity and worth of the services rendered by government and maintain... a deep sense of social responsibility as a trusted public servant"
- Encourage inclusion and build consensus among diverse interests (including those of elected officials, the business community, and citizens) by focusing on the entire community rather than the centralized interests of one or two individuals

- Promote equity and fairness by ensuring that services are fairly distributed and that administrative decisions (such as hiring and contracting) are based on merit rather than favoritism
- Develop and sustain organizational excellence and promote innovation. Professional managers focus relentlessly on efficient and equitable service delivery, policy implementation, and evaluation. They align the local government's administrative systems with the values, mission, and policy goals defined by the community and elected officials.

**Does it cost more for a community to adopt the council-manager form and hire a professional manager?**

Many local governments have found that their overall costs are actually reduced under competent management. Savings can come from decreased operating costs, increased efficiency and productivity, improved revenue collection, and effective use of technology. The economic health of the community may also benefit from implementation of improved business development and retention strategies.

**What kinds of communities use the council-manager form of government?**

In 2007, more than 3,500 (49 percent) of the 7,171 U.S. cities and towns with populations of 2,500 residents or more operated under the council-manager form. This structure is also used by more than 370 counties. More than 92 million people in the U.S. live in communities that operate under this form.

**Is the council-manager form popular among larger communities?**

Of the 247 U.S. cities with populations greater than 100,000 residents, 144 (58 percent) use this form of government. Larger cities and counties that use the form include:

- Broward County, Florida (pop. 1,623,000)
- Charlotte, North Carolina (pop. 540,000)
- Dallas, Texas (pop. 1,188,000)
- Fairfax County, Virginia (pop. 969,000)
- Las Vegas, Nevada (pop. 535,000)
- Mecklenburg County, North Carolina (pop. 695,000)
- Oklahoma City, Oklahoma (pop. 506,000) *(continued)*

(continued)

- Phoenix, Arizona (pop. 1,321,000)
- San Antonio, Texas (pop. 1,144,000)
- San Jose, California (pop. 894,000)
- Virginia Beach, Virginia (pop. 425,000)
- Wichita, Kansas (pop. 344,000)

**How can a community adopt the council-manager form of government?**

Most communities can adopt council-manager government through a charter, local ordinance, state enabling law, or by voter referendum. For information on how your community can adopt council-manager government, contact your state municipal league or association of counties. You can locate the addresses of these organizations on the Internet, or in the back section of ICMA's *Municipal Year Book*, which you may find in your local library.

**Once a community adopts council-manager government, how does it choose a professional manager?**

The vacancy usually is announced in the *ICMA Newsletter*, and managers, assistants, and other individuals from across the country are invited to apply. Interested parties apply directly to the council, which reviews the applications and interviews qualified candidates. ICMA makes no recommendations regarding candidates. Additional information is available in ICMA's *Recruitment Guidelines Handbook*. To download a copy, visit <http://jobs.icma.org> and click on "Recruitment Guidelines Handbook" under "Resources."


**What kind of educational and professional experience do professional local government managers possess?**

Nearly 67% of managers surveyed by ICMA in 2006 indicated that they had earned a master's (usually in public administration, business, or public policy), or other advanced degree. Respondents to the same survey said they had spent an average of 19 years in the local government management profession.

**Do professional local government managers have a membership organization?**

Yes. ICMA (the International City/County Management Association) is the premier local government leadership and management organization that serves as the





professional and educational "home" for appointed professional managers and administrators. ICMA's membership also includes directors of state associations of local governments, other local government employees, academics, students, and concerned citizens who share the goal of improving local government.


ICMA's mission is to create excellence in local governance by developing and fostering professional local government management worldwide. To that end, the organization provides technical assistance and publications for management professionals to help them improve their skills and increase their knowledge. ICMA also serves as a clearinghouse for the collection, analysis, and dissemination of information and data about local government.

**Why is membership in ICMA important for a professional local government manager?**

In addition to gaining access to valuable resources and lifelong professional development opportunities, managers who belong to ICMA are bound by its Code of Ethics, which states that every member of the organization shall act with integrity in all personal and professional matters so that they will merit the respect and trust of elected officials, employees, and the public. This stringently enforced Code specifies 12 ethical principles of personal and professional conduct, including dedication to the cause of good government.

ICMA members believe in the effectiveness of representative democracy and the value of government services provided equitably to residents within a community. ICMA members are also committed to standards of honesty and integrity that go beyond those required by the law. For more information, contact ICMA or visit <http://icma.org/ethics>.

Finally, ICMA defines professional management and recognizes individual members who are qualified by a combination of education and experience, adherence to high standards of integrity, and an assessed commitment to lifelong learning and professional development. ICMA members who meet these requirements may earn designation as an ICMA Credentialed Manager. For more information on ICMA's Voluntary Credentialing Program, visit <http://icma.org/credentialing>.



**Are there other, independent organizations that support council-manager government?**

The National Civic League (NCL) is America's original advocate for community democracy. This nonprofit, nonpartisan membership organization is dedicated to strengthening citizen democracy by transforming democratic institutions. NCL accomplishes its mission through technical assistance, training, publishing, research, and promoting the All-America City Awards, America's original and most prestigious community recognition program.

Founded in 1895, NCL serves as a clearinghouse for information on methods of improving state and local government. The League's *Model City Charter*, now in its eighth edition, has endorsed council-manager government since 1915.

**For further information, contact**

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## What Every Potential Candidate Should Know About Municipal Government

Prepared by the Alabama League of Municipalities

[August 28, 2018 City of Mountain Brook]

On August 23, 2016, the vast majority of Alabama's municipalities will hold elections for the mayor and council. While candidates cannot officially qualify to be on the ballot until July 5, 2016, many candidates have already announced their intention to run for municipal office and have started their campaigns. The Alabama League of Municipalities prepares a manual titled *Procedures for Holding Elections in Mayor-Council Municipalities* which covers issues related to campaigning and holding a municipal election. Included in the manual is an elections calendar out-lining all of the important dates relating to the election process. This manual is available for download on the League's website: [www.alalm.org](http://www.alalm.org). Over the next several issues, the Legal Viewpoint will explore various issues relating to municipal elections and the election process.

The goal of this article is to inform potential candidates as to the structure of municipal governments in Alabama as well as to the limitations and restrictions on municipal power. It is not intended as a guide for qualifying and running for municipal office. Candidates must understand the extent of the authority a municipality may exercise before making the decision to run for office. Also, an understanding of these laws and functions can help candidates avoid future embarrassment upon discovering that a campaign promise can't legally be fulfilled.

The provisions discussed in this article apply generally to any municipality with a mayor/council form of government. Many state laws, however, apply to only certain municipalities. It is up to the candidate to be sure that the rules and regulations set out in this article govern their municipality.<sup>1</sup>

### What is a Municipality?

In Alabama, a municipality is a form of local government created by the citizens within a defined area. First, the local government must meet the requirements of state law to incorporate. The laws governing incorporation are found in Article 1 of Chapter 41 of Title 11, Code of Alabama 1975. Following these procedures and an affirmative vote of the majority of citizens in the area proposed for incorporation, a municipality is created.

Historians disagree regarding the reasons municipalities first came into existence. Some reasons include the promotion of commerce, protection from invading armies, convenience, or even just the desire of humans to share time with each other. Regardless of the historical reasons, municipalities today provide many services to their citizens, such as fire and police, utility services, parks and recreation, and historical preservation among others. They also help protect their citizens through these services. Municipalities provide an element of convenience by performing many services which individuals themselves may not be willing to perform, such as construction and maintenance of roads, disposal of garbage and promotion of the arts.

Municipal government provides a means for citizens to have a direct say in which services are needed and how those services should be provided through the process of electing representatives. Representatives, who are chosen from the pool of willing citizens, meet and discuss how the municipality can best meet the needs and desires of their citizens.

When these elected officials meet, however, it is important for all parties to understand that in Alabama, all municipal powers flow directly from the state legislature. That is to say, Alabama's municipalities do not have "Home Rule" and therefore do not have inherent power to operate as a government independent of the Alabama Legislature. Alabama operates under what is known as the "Dillon rule". This rule provides that municipalities have no powers beyond those that are given to them by the state legislature. The authorization must be either explicit or

clearly implied from the language of a state statute or constitutional provision. See generally *Mobile v. Moog*, 53 Ala. 561 (Ala. 1875); *Best v. Birmingham*, 79 So. 113 (Ala. 1918).

Briefly, Alabama is governed by Alabama Constitution of 1901, and any amendments thereto. Laws in the Constitution are passed by the legislature, but only become effective following a vote of the public. The Constitution provides a framework for the adoption of laws by the legislature. Legislative acts cannot conflict with constitutional provisions. If there is a conflict, a new constitutional amendment must be adopted and approved by a vote of the people.

In addition to the Constitution, the legislature meets at least annually--more often if special sessions are needed--to pass general and local laws. Many of these laws apply directly to the operation of municipal governments. Actions taken by a municipal government cannot conflict with state legislation. Beyond that rule, however, is a further limitation on municipal powers. Not only do municipal actions have to comply with these statutes and the Alabama Constitution; under the Dillon rule, there must be legislative authority for the municipality to take the specific action in question.

When potential candidates decide that when they get elected some action needs to be taken, they examine the laws to ensure that the municipality has the power to act in the way desired. If not, authority must be obtained through the Alabama Legislature. Depending on what the official wants to do, this may require either a local act, a general act or possibly even the adoption of a constitutional amendment.

### **The Extent of Municipal Power**

Municipalities are established by incorporation through the procedures set out in the Code. Art.1 of Chap. 41 of Title 11, Code of Ala. 1975. Municipalities grow through annexations. The methods of annexing property are also provided for in the Code. See Chapter

42 of Title 11, Code of Ala. 1975.

Municipalities are divided into cities and towns on the basis of population. Section 11-40-6, Code of Ala. 1975. If the municipality has less than 2,000 citizens, it is a town. Once the population reaches 2,000, however, the municipality is defined as a city.

Municipalities may exercise two types of power: legislative and corporate. Legislative powers affect the public generally. In exercising these powers, the municipality acts very much as an arm of the state. Corporate powers are more comparable to those of a private corporation and are exercised to benefit the municipality in its proprietary capacity.

Municipalities also have authority to exercise certain powers within their police jurisdictions. The police jurisdiction is a legislatively created area outside the corporate limits of a municipality. Section 11-40-10, Code of Ala. 1975. The size of the police jurisdiction is either a mile-and-a-half, or three miles, depending on the population of the municipality. It ensures orderly development beyond the municipal limits and allows the municipality to protect persons who live within these areas.

Municipalities can levy certain types of taxes in the police jurisdiction in order to pay for services which are provided in the area. See Section 11-51-91, Code of Ala. 1975. Additionally, municipalities can enforce criminal ordinances in the police jurisdiction. Construction and development can be regulated through the application of municipal building codes and subdivision regulations. Municipalities can also provide a wide range of services to citizens within the police jurisdiction, and if the municipality licenses businesses within the police jurisdiction, it must spend those funds to provide services within the police jurisdiction.

### **Appropriations**

Frequently, potential candidates for municipal office make promises to voters that will

require some type of appropriation from the municipal treasury. The use of public funds is, of course, of central concern to the voters. Many taxpayers, understandably, want to have a direct say in how their tax money is spent. However, citizens must understand that municipal expenditures are limited by state law.

Perhaps the most common barrier to municipal spending is Section 94 of the Alabama Constitution of 1901. This Section is commonly referred to simply as Section 94. It prohibits municipalities from giving anything of value to any private individual or group of individuals. The prohibition also bars donations to private, nonprofit corporations, even if these organizations benefit the public. Section 94 is the reason municipalities cannot pave driveways or parking lots on private property. The rule is also why government property cannot be given away, unless the use of those funds serves a recognized public purpose.

Section 94 is a frequent source of friction for elected officials, especially for those who are new to the operations of public entities. This is because often the groups requesting financial help from the municipality do provide a valid community service, and there is an inherent desire to assist them. Many are charitable organizations. For the purposes of Section 94, though, it is crucial to distinguish between the public and private nature of the group, and many traditional entities are considered private, not public. Under Section 94, it doesn't matter that the group is non-profit. If it is private (which generally means that it was not directly created by a public organization), the municipality may not donate funds to it without finding a public purpose behind the donation.

In *Slawson v. Alabama Forestry Commission*, 631 So. 2d 953 (Ala. 1994), the Alabama Supreme Court stated that, “[t]he paramount test should be whether the expenditure confers a direct public benefit of a reasonably general character, that is to say, to a significant part of the

public, as distinguished from a remote and theoretical benefit. . . .”

Section 94, though, does not prohibit municipalities from contracting with private companies and individuals for services. For example, although a municipality cannot give money to the Girl Scouts of America, the municipality may compensate the Girl Scouts for legitimate services they can perform for the municipality. Bear in mind that the service being performed generally must be a service that the municipality could perform itself.

Similarly, Section 94 does not ban appropriations to public organizations which serve the municipality. For instance, municipalities may contribute funds to public schools their citizens attend. Municipalities may not, however, make donations to band booster clubs or other private clubs organized by students or parents because these are private groups.

Section 94.01 of the Alabama Constitution of 1901, creates a limited exception to Section 94 for economic development projects. The procedures in Section 94.01 must be followed exactly in order to spend public funds under to this provision.

Municipalities must also comply with State bid laws. Generally speaking, the bid law prohibits expenditures (with certain exceptions which are listed in the Code) of more than \$15,000.00 (\$50,000 for public works contracts) without first soliciting competitive bids. See Article 3 of Chapter 16 of Title 50, Code of Ala. 1975 (Competitive Bid Law) and Chapter 2 of Title 39, Code of Ala. 1975 (Public Works Bid Law). Municipalities may, however, contract with other public agencies or purchase items through a state contract without first obtaining bids. AGO 2008-093. In addition, they may make purchases through a purchasing cooperative under certain conditions or off an existing Government Services Administration (GSA) contract. Section 41-16-51(a)(17).

There are other provisions governing municipal expenditures that are too numerous to



discuss here. What is important is for potential candidates to understand that they must examine expenditures carefully to ensure that the expenditures are legal.

### **Citizen Petitions**

Citizens often draft and circulate petitions to be presented to the municipal governing body. What is the legal effect of these petitions?

In some limited cases the Code requires the council to act on petitions which contain a certain percentage of citizen signatures. Some examples include petitioning for certain methods of annexation and petitioning for a wet/dry alcohol referendum. In these cases, the council must follow through on all statutory requirements. These situations, though, are rare. Usually, the council is not required to act on, or even debate, requests submitted by petition. At best, a petition serves as a means of bringing the issue before the council.

Citizens have the right to make requests of the governing body. And, just as clearly, the number of signatures on a petition has a practical political effect. In most cases, however, a council may deny a petitioner's request, or refuse to even consider it.

Even where a municipal council will consider a citizen petition, it is important that candidates realize that duly elected municipal officials cannot delegate the authority to make legislative decisions to the citizens themselves. Frequently, elected officials want to allow citizens to vote on issues. While it may be admirable to seek approval of those who will become subject to a municipal action, the legislative power of a municipality, exercised by the municipal governing body, cannot be delegated to the citizens. For instance, in Opinion No. 91-00262, the Attorney General held that a city council may not make zoning in a particular district subject to a referendum of the residents.

The prohibition on delegation of municipal powers is particularly applicable to taxation.

A municipality cannot hold a referendum for the voters to approve most tax increases. Ad valorem taxes are the notable exception. Most other taxes must be approved by the council by passage of a general and permanent ordinance. The city may hold a public hearing to obtain input, but it cannot delegate approval of the tax or tax increase to the citizens.

In fact, a city may not sponsor and hold a non-binding referendum using city employees and officials to work on the election, even if the cost of the referendum is paid for with private funds. AGO 94-00001. But, a private group may conduct a non-binding referendum for a municipality, although the municipality may not participate other than as private citizens and the council cannot agree to be bound by the referendum. AGO 97-00257. Keep in mind that under state law a municipality must submit some questions, as provided for by law, to the voters to make the final decision. When making campaign promises, a candidate for municipal office must be sure whether a referendum is required, or even allowed, prior to agreeing to allow the public to vote on specific issues should he or she get elected.

### **The Division of Duties Between Elected Officials**

One of the most misunderstood aspects of municipal government is the separation of powers between the mayor and the council. Like government on the state and federal levels, municipal government is divided into three separate but equal branches: executive, legislative and judicial. Each of these branches has distinct duties, powers and restrictions on how far it can intrude into the affairs of the other branches.

At the municipal level, the mayor serves as the head of the executive branch. Section 11-43-81, Code of Alabama 1975. As such, the mayor is responsible for overseeing the day-to-day operations of the municipality. He or she oversees municipal employees, makes sure that bills are paid on time, executes municipal contracts and, in general, performs many of the same functions

as a C.E.O. of a private corporation.

In municipalities of less than 12,000 inhabitants, the mayor also presides over council meetings and serves as a member of the council. Section 11-43-40, Code of Alabama 1975. In these cities and towns, the mayor may vote on any issue before the council, introduce measures and participate in debates to the same extent as members of the council.

In cities with populations of more than 12,000, the mayor is not a member of the council. However, he or she has a veto over any permanent action taken by the council. The council can override the veto by a two-thirds votes. Section 11-43-40, Code of Alabama 1975.

The council is the legislative branch. Candidates must understand that individual councilmembers, acting alone, have no greater power or authority than any other citizen of the municipality. The council can only act as a body at a legally convened meeting.

The council has authority over the finances and property of the municipality. The council establishes policies, passes ordinances, sets tax levels, determines what sorts of services the municipality will offer and has authority over all other legislative aspects of municipal government.

### **Council Meetings & Public Participation**

Problems frequently arise over public participation in council meetings. This is probably due to the misconception of a council meeting as a public hearing. It is not. A council meeting is intended as a gathering of elected officials brought together to conduct the affairs of the municipality. It is a business meeting. The meeting is open to the public not so much to obtain citizen input, but to allow the public to observe the affairs of government to ensure appropriate and legal representation by their elected officials. Although most councils do set aside a time for public comment, Alabama law does not guarantee citizens the right to speak at a council

meeting. The Open Meetings Act, found in Chapter 25A of Title 36, Code of Alabama 1975, grants citizens the right to be present at public meetings, but does not grant them an absolute right to express their views at the meeting. And, the municipality may establish reasonable guidelines governing public participation in the meeting. AGO 98-00134.

### **Public Records**

Potential candidates must also be aware that problems often arise over public records. Controversies over what is public and what is not public are common. It is probably best to assume as a starting point that all records a municipality keeps are public. Section 36-12-40 and 36-12-41, Code of Alabama 1975, guarantee every citizen the right to inspect and make copies of all public writings, unless otherwise expressly provided by statute. While most records maintained by a municipality are public, some are not available for public inspection even by elected officials. For example, sensitive tax information is protected by state law and employee withholding information cannot be released. Municipalities are encouraged to establish reasonable procedures governing access to public records. Citizens who wish to view public records must follow these procedures. The custodian of records may ask for a reason for viewing the records, and must be convinced that the reason is legitimate. Also, the municipality may charge for making copies. AGO 2008-073.

Additionally, not all records are public. Some records, such as on-going police investigation files, some material in personnel records, confidential tax information and similar records containing information not for public consumption, are not open to the public.

For potential candidates, it is important to note that individual councilmembers and the mayor generally have no greater right to inspect municipal records than do any other members of the public. See AGO 2000-053.

## Relationships with Boards

Not all municipal services are provided by the municipality itself. Many are provided by municipal boards. Some of these boards are separately incorporated, while others are not. Municipalities have the authority to create a broad range of boards to control particular functions. Perhaps the most common example is a utility board.

Boards are usually created when the governing body takes on the duty of performing so many functions that it needs to give the responsibility to another entity so that it can adequately provide for the other needs of the citizens. Once a board is created, its powers are specified by the statute under which it was organized. The council may not change the duties of the board from those set out in the statute. Nor can a council create boards that are not authorized by the legislature. Although a council may create an advisory board, it cannot delegate power over any municipal function in its control unless the legislature has given them that authority. McQuillan, *Municipal Corporations*, 3<sup>rd</sup> ed., Section 12.38. An advisory board can only make recommendations to the council. The council must determine whether or not to act on those recommendations.

Frequently, municipal officials are asked to remove board members or to order the board to take certain actions. Candidates must understand that once a board is created, it has the sole power to act and the council has no power to make demands on the members of the board. Members of these boards are appointed for terms and generally they cannot be removed until their terms expire. This is especially true for separately incorporated boards.

It is particularly important to understand the difference between an incorporated and an unincorporated board. Incorporated boards usually cannot be dissolved until some event defined in the Code occurs. Frequently this is the payment of the debts of the board. Therefore, members

of incorporated boards are totally independent from council members. Unincorporated boards are different. They generally can be dissolved by a governing body. The council will then either establish a new board or assume control over the functions themselves. However, the council may not leave the board in existence and change the duties of the board from those set out in the Code.

### **Conclusion**

This article does not answer every conceivable question regarding municipal government, nor could it. Municipal government is multifaceted. It is difficult to even list all the functions performed by municipalities, and even harder to explain the laws which govern their operation. Multi-volume sets of books have been written which provide only a brief overview.

What is often overlooked, however, is the community nature of a municipality. Although municipal governments are legally recognized entities with a certain amount of control over the affairs of their citizens, municipalities are still communities. They are organized by citizens who feel a need for the services and protection the government provides. In order to make the government effective, elected officials, and the citizens they represent, must work together in a spirit of cooperation, cooperation based on an understanding of what the municipality is permitted to do under state law. The League hopes this article will help foster this spirit of cooperation.

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<sup>i</sup> The League encourages municipal clerks to make copies of this article to make potential candidates aware of the regulations that will govern their actions as municipal officials. This article should also serve as a refresher for elected officials who are presently in office.



# The Legal Viewpoint

By Lori Lein  
General Counsel



## The Fair Campaign Practices Act: What Municipal Candidates Need to Know

Since the 2008 Municipal Elections, changes have been made to the The Fair Campaign Practices Act (FCPA). This article outlines the basic requirements of the FCPA as they relate to candidates for municipal office. It is written as a service to those candidates but is not a substitute for the Code of Alabama, 1975. It is provided as a guide and is not intended as a authoritative statement of the law as it relates to the FCPA. Candidates who have questions regarding the FCPA should seek further guidance from the Elections Division of the office of the Alabama Secretary of State.

The Fair Campaign Practices Act (FCPA), found in Sections 17-5-1 through 17-5-19 of the Code of Alabama 1975, sets out the rules for how and when candidates can raise and spend money when running for public office.<sup>1</sup> The FCPA also provides for specific reporting requirements for candidates who raise and spend money. For local elections, the FCPA requires all candidates who receive contributions or make expenditures of \$1,000 or more to report their financial activities.

### Campaign Contributions

Section 17-5-7, Code of Alabama 1975, states that candidates may not accept, solicit or receive contributions more than 12 months before an election in which they intend to be a candidate<sup>2</sup>. Following an election, candidates are allowed to solicit contributions for a period of 120 days after the election, but only to the extent of any campaign debt, the \$1000 threshold amount or both amounts combined. Candidates may use campaign contributions to help influence the outcome of an election as well as any expenses associated with challenging an election. This Section also outlines how excess campaign contributions may be used. For example, campaign contributions can be used to cover any necessary and ordinary expenditures of the campaign as well as any inaugural or transitional expenses.

Candidates are prohibited from accepting, soliciting or receiving campaign contributions as a bribe or for the intention of corruptly influencing the official actions of the public official or candidate for public office. Further, Section 36-25-6, Code of Alabama 1975, provides that candidates may not convert campaign funds to personal use.

### Principal Campaign Committee

Within five days after a candidate either qualifies for municipal election<sup>3</sup> or meets the \$1,000 threshold amount, he or she is required to file, with the probate judge of the county in which the office is sought, an "Appointment of Principal Campaign Committee" form.<sup>4</sup> Failure to file this form could result in the candidate being denied a certificate of election. Section 17-5-18, Code of Alabama 1975. The form must show the names of from two to five persons the candidate has chosen to serve as his or her principal campaign committee, or the candidate may declare themselves as the person to serve as the principal campaign committee. In addition to the form appointing the committee, a candidate must file a written statement showing the acceptance or consent of the committee members of their appointment. If any vacancies occur on the committee, the candidate is to fill the vacancy or the remaining members may discharge and complete the duties required as if the vacancy had not occurred.

Every principal campaign committee must have a chairman and a treasurer. Candidates serving as their own principal campaign committee must perform the duties of the chairman and treasurer. The committee has exclusive custody of all funds contributed, donated, subscribed or in any manner furnished to or for the candidate represented by the committee. No candidate may spend any personal funds to help his election except by contributing those personal funds to the principal campaign committee he or she has designated. Section 17-5-4, Code of Alabama 1975.

The committee must maintain a checking account for all contributions it receives. All committee funds must be segregated from, and not commingled with, personal funds of officers, members or associates of the committee. The committee may not spend any money except by check drawn on the account or out of a petty cash fund from which it may make expenditures in connection with a single purchase or transaction of \$100 or less. Section 17-5-6, Code of Alabama 1975.


It is the duty of the committee treasurer to keep a detailed, exact account of all contributions and expenditures. Essentially, any gift, donation, advance or deposit of money or anything

of value, or a contract to do any of these things, constitutes a contribution. Section 17-5-2, Code of Alabama 1975. A contribution would also include the payment of compensation by any person for the personal services or expenses incurred on behalf of a candidate or political committee without payment of full and adequate compensation by the candidate. Expenditures are defined as any purchase or transfer of anything of value, made to influence the result of the election, or any contract for this purpose. Certain actions, however, are specifically exempted from the definitions of contributions and expenditures in the FCPA. These are listed in full in Section 17-5-2, Code of Alabama 1975.

The committee must report the identity of each person who has made a contribution in an aggregate amount greater than \$100, along with the date and amount of the contribution. The committee must also report the identity of every person to whom an expenditure in an aggregate amount greater than \$100 is made, along with the date and amount of the expenditure and the name of each candidate on whose behalf the expenditure was made. In addition, the treasurer must obtain and keep a receipted bill or cancelled check, stating the particulars for every expenditure made by or on behalf of the committee greater than \$100, and of expenditures of a lesser amount, if the aggregate amount paid to the same person during the calendar year is greater than \$100. The treasurer must preserve all receipted bills and accounts for a period of two years from the date of the expenditure. Items costing more than \$100.00 charged to a credit card must be itemized individually. AGO 1995-00132.

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If a candidate pays for campaign expenses using that candidate's personal funds, the candidate's principal campaign committee may reimburse the candidate, but the committee and the candidate must itemize the recipients for each of the expenditures made by that candidate to accurately reflect to whom the expenditures were made. This opinion applies prospectively only. AGO 2007-006.

The importance of good record keeping cannot be overstated. It is vital for candidates to maintain some type of internal records on contributions of \$100 or less, since an additional donation from the same contributor could bring the total to more than \$100 and result in the need to itemize that contributor's contributions. The same is true for expenditures of \$100 or less.

#### **Filing Deadlines**

For any year in which an election is held, the FCPA requires the treasurer of a principal campaign committee in a municipal election to file with the probate judge reports of contributions and expenditures once a campaign has received contributions or made expenditures of \$1,000 or more. Section 17-5-8, of the Code of Alabama provides that once this occurs, the treasurer of the committee must file a report with the probate judge on the last day of each month during the 12 months leading up to the election with the exception of the month preceding the election. In the month preceding the election, the treasurer of the committee must file a report with the probate judge every Friday leading up to election day. Candidates for municipal office should file financial disclosure forms in all counties in which the municipality lies, unless the candidate is running for election in a district totally contained in one county. AGO 1996-00306.

While every candidate must appoint a principal campaign committee, candidates who have not reached their monetary threshold are exempt from filing the monthly, weekly and daily reports until the monetary threshold has been reached. AGO 90-00343. Otherwise, these pre-election reports are due prior to the election. Section 17-5-8, Code of Alabama 1975. Daily reports only apply to candidates for legislative, state school board, and statewide primary offices. Daily reports do not apply to candidates for municipal office. Section 17-5-8(a)(3), Code of Alabama 1975. Though not required to file, candidates who have not reached their monetary threshold reporting requirement may still choose to file the optional "Waiver of Report" form if they have concerns about the appearance of non-compliance. AGO 2012-0030.

According to the FCPA, forms that are hand-delivered or sent by regular United States mail, must be received on the due date for filing.<sup>5</sup> In order for disclosure reports sent by certified or registered United States mail to be deemed timely filed, they must be postmarked no later than two days prior to the due date for filing. Beginning in the 2012 Election cycle, candidates receiving \$10,000 or less per election cycle may file his or her FCPA reports by facsimile transmission. AGO 2012-0028.

It is the duty of the Secretary of State or the probate judge to furnish all forms necessary for compliance with the FCPA. Section 17-5-11 of the Code of Alabama 1975. The probate judge must receive all reports required to be filed, along with



any extra information that is voluntarily supplied, and preserve a copy of each report for public inspection and copying. However, no information copied from the reports can be used by any political party or committee to solicit funds or for commercial purposes without the express written permission of the candidate or committee furnishing the information.

In addition to the filings required during the year leading up an election, the FCPA requires that all elected officials file an annual report with the Judge of Probate, even if they had no contributions or expenditures and even if they have dissolved their principal campaign committee. Candidates who are not elected should dissolve their principal campaign committees by filing a form with the probate judge because the FCPA requires all candidates who fail to dissolve their campaign committees to file an annual report listing all contributions or expenditures with the probate judge. This annual report is due January 31<sup>st</sup> of each year.

#### Failure to File

Again, it is important to note that no certificate of election shall issue to any person who fails to file any statement or report required by the FCPA. While a municipal election cannot be annulled for a failure to file, Section 17-5-18, Code of Alabama 1975, provides for the revocation of the certificate of election of any candidate who fails to file a statement or report required by the FCPA. Further, a person who violates a reporting requirement is guilty of a Class B misdemeanor and may be fined up to \$1,000 or an amount not more than double the amount or value of contributions or expenditures not reported, whichever is greater, and imprisoned up to six months. A person who intentionally violates Section 17-5-7, Code of Alabama 1975, is guilty of a Class B felony. 17-17-35, Code of Alabama 1975.

#### Campaign Materials & Activities

It is important for candidates to know that the FCPA contains other provisions in addition to those dealing with campaign finance reporting. For example, all political advertisements or electioneering communications must be clearly marked with a statement identifying the entity who paid for or authorized the advertisement. Section 17-5-12, Code of Alabama 1975. Section 17-5-13, Code of Alabama 1975 provides that it is unlawful for any person or committee to distribute, broadcast or publish any campaign literature, political advertisement, or electioneering communications, including cards, pamphlets, circulars, posters or other printed material related to or concerning the election, without this notice. In *McIntyre v. Ohio Elections Comm.*, 514 U.S. 334 (1995), the U. S. Supreme Court held that a similar provision in Ohio law violated the First Amendment to the U.S. Constitution. The Alabama Attorney General has ruled that the Court decision only applies to individuals in non-candidate elections. Persons placing an ad for the purpose of electing an individual to office in Alabama must continue to comply with this provision of the FCPA. AGO 1995-00218.

Further, it is unlawful for someone to make a contribution in the name of another person, or knowingly permit his or her name to be used to effect a contribution made by one

person in the name of another person, or to knowingly accept a contribution made in the name of another person. Section 17-5-15, Code of Alabama 1975. It is illegal for any person to misrepresent himself or herself, or any other person or organization with which he or she is affiliated, as acting for or on behalf of any candidate, committee or political party, or agent or employee thereof, in a manner which is damaging or is intended to be damaging to such other candidate, committee or political party. Section 17-5-16, Code of Alabama 1975. And finally, it is illegal for any person or committee, or any agent of a person or committee, to solicit or secure anything of value by physical force, job discrimination or financial reprisals, or by threats or by the imposition of dues, fees or other money required as a condition of employment. Section 17-5-17, Code of Alabama 1975.

In addition to the provisions of the FCPA, there are other election laws for candidates to keep in mind. It is illegal for any person to obstruct, intimidate, threaten or coerce any other person in order to interfere with that person's right to vote, or to cause that person to vote for, or not vote for, any candidate or other proposition. Section 17-17-33, Code of Alabama 1975. It is also illegal to pay, offer to pay, or accept payment, either to vote or withhold a vote, or to vote for or against a candidate or proposition. Section 17-17-34, Code of Alabama 1975. A person who violates these provisions is guilty of a Class A misdemeanor and may be fined up to \$2,000 and sentenced to up to one year. 17-17-35, Code of Alabama 1975. ■

#### For More Information

For more information on the Fair Campaign Practices Act and other state law requirements for candidates, please review the "Candidate Filing Guide" (11<sup>th</sup> ed.) which is available from the Elections Division of the Alabama Secretary of State. A copy of this publication can be found at: [www.sos.alabama.gov/downloads/election/2012/2012CandidateFilingGuide.pdf](http://www.sos.alabama.gov/downloads/election/2012/2012CandidateFilingGuide.pdf)

For more information on municipal elections in general, please review the publication "Procedures for Holding Elections in Mayor-Council Municipalities" (2012 ed.) prepared and published by the Alabama League of Municipalities. This publication is only available electronically. A copy can be downloaded at: [www.alalm.org/PDF%20pages/Legal/2012ElectionsManualONLINE.pdf](http://www.alalm.org/PDF%20pages/Legal/2012ElectionsManualONLINE.pdf)

#### (Endnotes)

1. Some municipalities have their own campaign finance laws.
2. For those municipalities holding elections on August 28, 2012, candidates can begin raising and spending money as of August 28, 2011.
3. Qualification for the 2012 Municipal Elections begins on July 3, 2012 and ends on July 17, 2012.
4. Every candidate must also file a "Statement of Economic Interests" as required by the Alabama Ethics Law. Section 36-25-15, Code of Alabama 1975. This statement is filed with the city clerk at the time the candidate qualifies for office.
5. Currently there is no provision for electronic filing of required reports under the FCPA.

# Municipal Overview

Ken Smith • Executive Director

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## 30 Tips for Newly Elected Mayors and Councilmembers

*Reprinted with permission from the June 2010 issue of Texas Town & City, the official publication of the Texas Municipal League. Edited to include the Alabama League of Municipalities.*

1. Allow yourself enough time to be effective. Just attending council meetings isn't enough – you must study and discuss the problems and keep yourself informed on what's going on. To do even a fair job takes a lot of time.
2. Pace yourself. Limit the number of meetings you have. Set some priorities, recognize the need to spend time with your family, and don't burn yourself out. Recognize that life – and the city – is dependent on a lot of things we have little control over.
3. Don't make promises you can't deliver! Most major decisions and actions require approval of the governing body, and this takes a majority vote.
4. Treat everyone the same. Be consistent! And always deal with people as if you will have to deal with them again. Even if you don't, someone else will.
5. Don't spend most of your time checking on what your city staff has already done. Your primary job is to provide policies and direction for the city. For example, instead of spending time reviewing invoices, make sure you have a good purchasing practice through which invoices are generated in the first place.
6. Take your budget preparation job seriously, for it determines what your city does or doesn't do for the coming year. It's the biggest policy development tool available to govern the city. And when budget cutbacks are essential, don't cut back on those activities that are vital to the critical operation of the city.
7. Be alert for the little things. They are the things that always seem to grow and come back to get you.
8. Establish policy statements. Written policy statements let the public and the city staff know where they stand. They help the governing body govern, and writing them provides a process to develop consensus. "That's the way it's always been done" is not good enough to either stay out of trouble or to get things done.
9. Maintain the infrastructure! Make certain you are adequately keeping up with what you now have before taking on any new projects. Deferring maintenance costs to the future simply shifts your troubles to those who follow you in the future.
10. Don't give quick answers when you're not sure of the real answer. It may be embarrassing to appear ignorant, but it can be more embarrassing to tell a person something that is wrong.
11. Don't be stampeded into action. Don't be misled by the strong demands of special interest groups who want it done now, their way. Your job is to find the long-term public interest of the city, and you may be hearing from the wrong people.
12. Don't spring surprises on your fellow councilmembers or your city staff, especially at formal meetings. If a matter is worth bringing up for discussion, it should be put on the agenda. Surprises may get you some publicity at the embarrassment of others, but they tend to erode the "team" approach to governance.
13. Don't bypass the system! If you have a city manager or other chief administrative official, stick to policy and avoid personal involvement in day-to-day operations.
14. Don't let others bypass your system. Insist that people such as bond dealers or equipment suppliers first work with your city staff. If direct contact with councilmembers is advisable, this should be with the

*continued next page*

council as a whole and not on a one-on-one basis.

15. Formalize your personnel rules and regulations. Make sure they're clear. For example, if you don't pay for unused sick leave when an employee is terminated, put it in writing. Once the rules are established, councilmembers should avoid the temptation to get involved in personnel matters.

16. Familiarize yourself with the Open Meetings Act and the Public Information Act, and be sure to complete the state-mandated training in both. Respect the letter and intent of both acts, and don't underestimate their importance and seriousness.

17. Keep your constituents informed through such means as a weekly editorial in the local newspaper, radio interviews or news releases. Be friendly and deal effectively with the news media. Lack of proper communications is one of the biggest problems of cities.

18. Keep your employees informed, also – particularly those on the front line who make decisions or are in frequent contact with the people.

19. Appoint citizen advisory committees as needed, but be prepared to follow their advice. Appointing your opposition to a useful committee can let them work for you, instead of against you.

20. Hire the best people you can and give them as much responsibility as they can and will handle. There is always the possibility that they will get you into trouble at first, but if you stand behind them, eventually they can keep you out of trouble.

21. Charge your employees with being responsible for new ideas and better ways of doing things. Listen to what they have to say.

22. Have your city attorney attend your council meetings, but don't expect the attorney to know all the answers right on the spot. Give the attorney the chance to research the matter.

23. Don't simply ask your city attorney whether or not you can do something. Sometimes, the most appropriate question is, "How can we legally accomplish this objective?"

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## Municipal Overview

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24. If yours is a typical city, don't expect your city attorney to be an expert on every issue; city government is too complex. On occasion, you may need outside counsel, and it will be a good investment of public funds.

25. Elected officials should accept their leadership responsibilities, such as selling new programs to the public.

26. Make sure you have a good financial accounting and reporting system. Some cities have gotten into financial troubles simply because they spent more money than they had available and nobody knew it.

27. Don't act as if the city operates in a vacuum. We must work within the intergovernmental system to be effective. Keep in contact with your federal, state, county and school officials. Use the Alabama Municipal League.

28. Don't let a consultant take your place. You are the one who will be around to hear criticisms if things don't turn out right. The consultant should realize this.

Even though we expect their best judgment, they should expect us to want to look over their shoulders.

29. Don't be hesitant to budget money for your officers and employees to attend ALM workshops and conferences. These provide excellent learning opportunities and personal contacts that can be very valuable to your city.

30. Finally, define what "trouble" means to you. We must realize that we work in a fish bowl environment and that most of the things we do affect people. Many times, they will be affected in a manner they don't like. If "trouble" means having someone mad at you, you're in the wrong business! We should handle each item in a straightforward way that we know or believe to be correct. If things don't turn out the way they should – after all, even public officers and employees can make mistakes – no one can accuse you of improper motives, and you will know you did what you thought was proper. ■



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