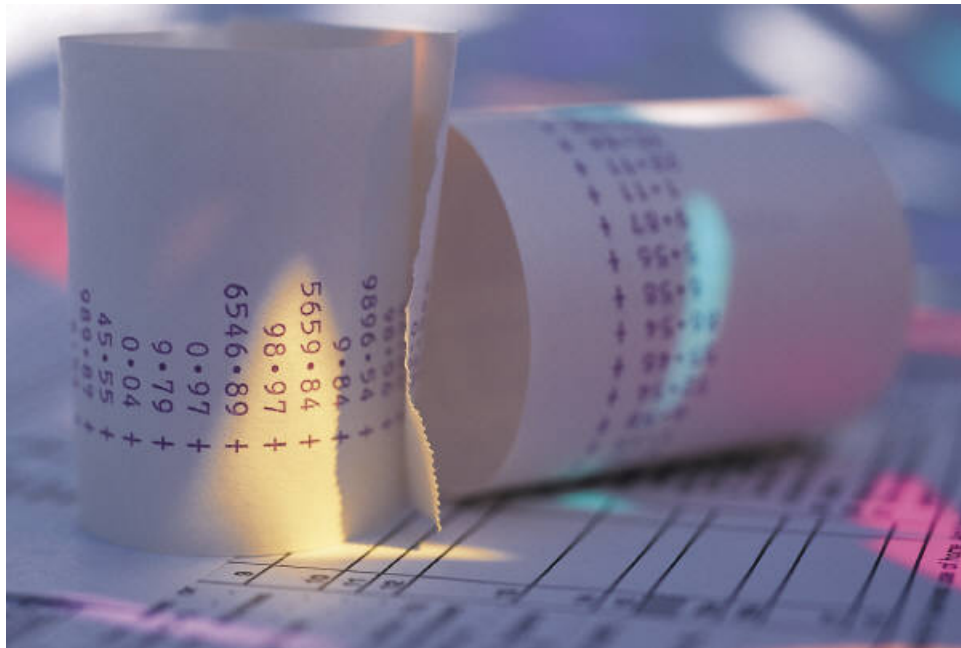


COUNTY FINANCE MANUAL



2008 REVISION

FOREWARD

The 2008 revision of the County Finance Manual is the product of a joint effort between the Office of Examiners of Public Accounts, the Association of County Commissions of Alabama (ACCA) and the Association of County Administrators of Alabama (ACAA). Contributors to this project have worked for almost a year to produce a new and improved manual that includes important financial updates and revisions, and expands the manual to include outlines on many of the legal issues that confront the county administrator on a daily basis.

Many people contributed greatly of their valuable time and resources to make this revision possible. Many thanks to all project participants, and in particular, the following: Chief Examiner Ron Jones and his staff, especially Mike Scroggins, Matt Richards, James Hall and Teresa Durrett; County Administrators Ken Joiner, Calhoun County; Sherrie Kelley, Coosa County; Brenda Petty, Covington County; Jeanette Medders, Elmore County; and John Gordon, Fayette County; and ACCA staff members Executive Director Buddy Sharpless; Assistant Executive Director Sonny Brasfield; Staff Attorney Mary Pons; and Director of Public Relations Lori Quiller. A special thank you is extended to 2007-2008 ACAA President Matt Sharp for not only his valuable input into the manual, but his diligent efforts in steering the project to timely completion.

The 2008 version of the County Finance Manual is redesigned in a user-friendly CD format, with tables and guidelines covering all aspects of county financial management. This new manual should provide all counties with an important and useful tool to assist in managing the county's finances.

COUNTY FINANCE MANUAL

2008 REVISION

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SECTION 1 – INTRODUCTION

The 2008 version of the County Finance Manual has been developed with the objective of providing the county commissions with a comprehensive accounting and financial reporting model to include the latest accounting standards as well as concise examples and even legal compliance guidelines.

The County Finance Manual has been divided into fourteen sections, each with different, yet beneficial information to assist the county commissions in the accurate recording and reporting of financial information and compliance with laws and regulations.

Section 2, Overview of Governmental Accounting and Reporting Standards, provides a general description of governmental accounting and discusses the various fund types and funds that exist in governmental accounting. This is not an in-depth discussion into governmental accounting, but instead is an overview of the basic governmental accounting principles. The information in this section was obtained from the 2006 Miller Governmental GAAP Guide. For a more comprehensive study or review into governmental accounting, one of the above documents or other similar textbooks relating to governmental accounting should be obtained.

Section 3 is divided into two parts: (1) Budgets Preparation and Schedules and (2) Other Financial Legal Matters. The Budget Preparation and Schedules section provides in-depth information relating to the budgeting process and provides sample worksheets which should prove useful to the counties in their budgeting process. The Other Financial Legal Matters section provides a summary of some of the legal compliance matters affecting finances.

Section 4, the Chart of Accounts, is a very important part of the Finance Manual. This section contains a chart of accounts that has been updated to include account codes that will enable the counties to record and report information in accordance with the latest standards. A major revision of the Chart of Accounts was necessary to enable counties to report in compliance with the GASB 34 reporting model.

Section 5, Financial Reporting (Sample Financial Statements) provides a visual sample of a county commission's financial statements.

Section 6, Audit Requirements discusses the various parts of an audit and provides the commission with information related to documents needed for an audit. It includes a sample checklist of items typically needed for an audit to aid the county commissions in being prepared for an audit.

Section 7, Internal Controls and Federal Single Audits provides a detailed discussion of internal controls, which should help each county identify potential internal control weaknesses in their operations. A discussion is also provided pertaining to the Single Audit Act requirements.

Section 8, Compensation for County Officials provides a discussion of laws affecting the compensation for County Officials including the Omnibus Pay Act.

Sections 9 through 13 provide discussions on a wide variety of legal compliance and procedural issues including Ad Valorem Taxes, Section 9, Competitive Bid Law and Public Works Law, Section 10, Open Meetings Law, Section 11, and the SAFE Program, Section 12. Section 13 is divided into four parts to include discussions on Miscellaneous Legal Issues, County Commission Meeting Procedures, General Administrative Functions and Duties of County Commission Chair and Chief Administrative Officer.

Section 14, Notes to the Financial Statements, provides a visual sample of a county commission's Notes to the Financial Statements which are considered an integral part of the financial statements.

At the end of the sections, there are some excerpts from Alabama's Constitution and the Code of Alabama that are relevant to county commissions.

The overall Finance Manual should prove to be user friendly and very concise. Unnecessary information has purposely been eliminated to provide a basic document in a format that can be continually updated.

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SECTION 2

OVERVIEW OF GOVERNMENTAL ACCOUNTING AND REPORTING

According to the Governmental Accounting Standards Board (GASB), the primary purpose of governments is to enhance or maintain the well-being of citizens by providing services in accordance with public-policy goals. In contrast, for-profit business enterprises focus primarily on wealth creation, interacting principally with those segments of society that fulfill their mission of generating a financial return on investment for shareholders.

A business enterprise is concerned with maximizing profits, whereas, a governmental entity's primary focus is providing services to its citizens and accountability for tax dollars which it receives. The primary users of financial information reported by governmental entities are:

Citizens of the governmental entity,

Direct representatives of the citizens (legislatures and oversight bodies),

Investors, creditors, and others who are involved in the lending process.

GASB: Concept Statement-1 identifies accountability as the paramount objective of financial reporting by state and local governments. Accountability is based on the transfer of responsibility for resources or actions from the citizenry to another party, such as the management of a governmental entity. Financial reporting should communicate adequate information to user groups to enable them to assess the performance of those parties empowered to act in the place of the citizenry.

To provide the necessary information for the above users, the governmental accounting system must make it possible to present fairly the financial position and results of financial operations of the funds of the governmental unit in conformity with generally accepted accounting principles and to demonstrate compliance with legal and contractual provisions related to the entity.

A tool used by governmental entities to account for their funds and to assist in compliance with legal and contractual provisions is the annual budget. An annual budget should be adopted by every governmental unit to provide budgetary control over its resources. Budgetary comparisons should be included in the appropriate financial statements for the General Fund and each major Special Revenue Fund for which an annual budget has been adopted.

The primary emphasis of the annual budgetary appropriation process of most governmental units is upon planning and controlling the financial operations of the governmental funds.

SUMMARY OF BASIC GOVERNMENTAL ACCOUNTING PRINCIPLES

The objectives for governmental financial reporting are the basis for determining specific accounting principles to be used by a governmental entity. There are 13 general principles of accounting and reporting applicable to governmental entities. These principles, which are established by NCGA-1 and GASB-34, provide a broad overview of financial reporting and are as follows:

1. Accounting and reporting capabilities
2. Fund accounting systems
3. Fund types
4. Number of funds
5. Reporting capital assets
6. Valuation of capital assets
7. Depreciation of capital assets
8. Reporting long-term liabilities
9. Measurement focus and basis of accounting
10. Budgeting, budgetary control, and budgetary reporting
11. Transfer, revenue, expenditure, and expense account classification
12. Common terminology and classification
13. Annual financial reports

ACCOUNTING AND REPORTING CAPABILITIES

A governmental entity's accounting system should be designed to achieve the following:

- Present fairly and with full disclosure the funds and activities of the government in conformity with governmental generally accepted accounting principles
- Determine and demonstrate compliance with finance-related legal and contractual provisions

FUND ACCOUNTING

To properly account for the many different sources of funds, governmental accounting systems should be organized and operated on a fund basis.

A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts, recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes

therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with specific regulations, restrictions, or limitations.

The detailed transactions and resulting balances of a governmental entity (the primary government as well as its blended component units) are generally recorded in individual funds; however, GASB-34 requires that only major funds be reported individually in a governmental entity's basic external financial statements.

FUND TYPES

Fund-based financial statements must be included in a governmental entity's financial report in order to demonstrate that restrictions imposed by statutes, regulations, or contracts have been followed. GASB-34 identifies the following as fund types that are to be used to record a governmental entity's activities during an accounting period:

◆ Governmental Funds

- (1) The General Fund - to account for all financial resources except those required to be reported in another fund.
- (2) Special Revenue Funds - to account for the proceeds of specific revenue sources (other than trusts for individuals, private organizations, or other governments or for major capital projects) that are legally restricted to expenditure for specified purposes.
- (3) Capital Projects Fund - to account for financial resources to be used for the acquisition or construction of major capital facilities (other than those financed by Proprietary Funds or in trust funds for individuals, private organizations, or other governments).
- (4) Debt Service Funds - to account for the accumulation of resources for, and the payment of, general long-term debt principal and interest.
- (5) Permanent Funds – to account for resources that are legally restricted to the extent that only earnings, and not principal, may be used for the purposes that support the reporting government's programs – that is, for the benefit of the government or its citizenry.

◆ Proprietary Funds

- (6) Enterprise Funds – to account for any activity for which a fee is charged to external users for goods or services. GASB 34 requires an enterprise fund be used to account for an activity if any one of the following three criteria is satisfied: (1) the activity is financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the activity; (2) laws or regulations require that the activity's costs of providing services, including capital costs (such as depreciation or capital debt service), be recovered with fees and charges, rather than with taxes or similar revenues; or (3) the pricing policies of the activity establish fees and charges designed to recover its costs, including capital costs (such as depreciation or debt service).

- (7) Internal Service Funds - to account for activities that involve the governmental entity providing goods or services to (1) other funds or activities of the primary government or its component units, or other governments on a cost-reimbursement basis and (2) the reporting entity is the predominant participant in the activity. If the reporting entity is not the predominant participant, the activity should be reported in an Enterprise Fund.

◆ **Fiduciary Funds**

Assets held by a governmental entity for other parties (either as a trustee or as an agent) and that cannot be used to finance the governmental entity's own operating programs should be reported in the fiduciary fund category. The following types of fiduciary funds may be used by county commissions:

- (8) Pension (and other employee benefit) Trust Funds - to account for resources held in trust for employees and their beneficiaries based on defined benefit pension agreements, defined contribution agreements, other postemployment benefit agreements, and other employee benefit arrangements.
- (9) Investment Trust Funds – to account for the external portion of an investment pool as defined in GASB Statement 31.
- (10) Private-Purpose Trust Funds – to account for the principal and income for all other trust arrangements that benefit individuals, private organizations, or other governments.
- (11) Agency Funds – to account for assets that are held in a custodial relationship. In a typical custodial relationship, a government receives assets, may temporarily invest those assets, and then remits those assets to individuals, private organizations, or other governments.

NUMBER OF FUNDS

A basic principle of governmental generally accepted accounting principles is that the actual number of funds used by a governmental entity should be kept to a minimum to avoid the creation of an inefficient financial system. In general, the number of funds established must be sufficient to meet operational needs and legal restrictions imposed on the organization. For example, only one General Fund should be maintained. In some circumstances it may be possible to account for restricted resources in the General Fund and still meet imposed legal requirements. Also, there may be no need to establish a Special Revenue Fund unless specifically required by law.

REPORTING CAPITAL ASSETS

At the fund-financial statement level, capital assets are not reported in governmental funds but are reported in proprietary funds and fiduciary funds (if any). All of a governmental entity's capital assets (with the exception of those of fiduciary funds) are reported in the government-wide financial statements and identified as related to either governmental activities or business-type activities.

VALUATION OF CAPITAL ASSETS

The governmental entity should report all of its capital assets, based on their original historical cost plus ancillary charges such as transportation, installation, and site preparation costs. Capital assets that have been donated to a governmental entity must be capitalized at their estimated fair value (plus any ancillary costs) at the date of receipt.

DEPRECIATION OF CAPITAL ASSETS

The cost (net of estimated salvage value) of capital assets (except for certain infrastructure assets) should be depreciated over the estimated useful lives of the assets. Inexhaustible capital assets (such as land, land improvements, and certain infrastructure assets) should not be depreciated. Depreciation expenses should be reported in the government-wide financial statements (statement of activities), financial statements for proprietary funds (statement of revenues, expenses, and changes in fund net assets), and financial statements for fiduciary funds (statement of changes in fiduciary net assets). Depreciation expense is not reported in governmental funds (the General Fund, Special Revenue Funds, and so forth).

REPORTING LONG-TERM LIABILITIES

There are three broad but distinct categories of long-term liabilities. Long-term liabilities related to proprietary funds should be reported both in government-wide financial statements and the fund financial statements. Long-term liabilities related to fiduciary funds should be reported only in the statement of fiduciary net assets. All other long-term liabilities that are not properly presented in either proprietary funds or fiduciary funds are general liabilities and should be reported only in the governmental activities column of the statement of net assets (a government-wide financial statement).

MEASUREMENT FOCUS AND BASIS OF ACCOUNTING

Government-wide financial statements have been established by GASB-34 in order to provide a basis for determining (1) the extent to which current services provided by the entity were financed with current revenues and (2) the degree to which a governmental entity's financial position has changed during the fiscal year. In order to achieve these objectives, government-wide financial statements should include a statement of net assets and a statement of activities.

Government-wide financial statements are based on a flow of all economic resources applied on the accrual basis of accounting. The flow of economic resources refers to all of the assets available to the governmental unit for the purpose of providing goods and services to the public. When the flow of economic resources and the accrual basis of accounting are combined, they provide the foundation for generally accepted accounting principles (GAAP) used by business enterprises in that essentially all assets and liabilities, both current and long-term, are presented in the statement of net assets.

The governmental entity's statement of activities includes all costs of providing goods and services during the period. These costs include depreciation, the cost of inventories consumed during the period, and other operating expenses. On the activity statement, revenues earned during the period are matched with the expenses incurred for exchange or exchange-like transactions. Non-exchange transactions are accounted for based on the standards established by GASB-33.

Governmental fund-based financial statements must be included in a governmental entity's financial report in

order to demonstrate that restrictions imposed by statutes, regulations, or contracts have been followed. These financial statements are based on the modified accrual accounting basis and the flow of current financial resources and therefore have a short-term emphasis and generally measure and account for cash and “other assets that can easily be converted to cash”.

Financial statements of proprietary and fiduciary funds are based on the economic resources measurement focus and the accrual basis of accounting.

The GASB-34 financial statements require reconciliation between the government-wide and fund statements, which present financial information using different bases of accounting and measurement focuses.

BUDGETING, BUDGETARY CONTROL AND BUDGETARY REPORTING

The following guidance should be followed as part of the budgetary process for a governmental entity:

- An annual budget should be adopted by every governmental entity
- The accounting system should provide the basis for appropriate budgetary control
- A common terminology and classification scheme should be used for budgets, recording transactions, and preparing financial reports for each fund

TRANSFER, REVENUE, EXPENDITURE AND EXPENSE ACCOUNT CLASSIFICATION

The following guidance should be followed in the preparation of governmental financial reports (NCGA-1, par. 99, and GASB-34, pars. 6, 39, 53, 88, 100, and 112):

- Transfers should be reported separately from revenues and expenditures/expenses
- Proceeds from the issuance of general long-term debt should be recorded separately from revenues in the governmental fund financial statements
- Governmental fund revenues should be reported by fund and source at the fund-financial statement level
- Governmental expenditures should be reported by fund and at least by function
- Proprietary fund revenues should be reported by major sources, and expense should be classified in a manner like that used by similar business activities
- The statement of activities should report governmental activities at least at the level of detail required in the governmental fund statement of revenues, expenditures, and changes in fund balances
- Governments should present business-type activities at least by segment

COMMON TERMINOLOGY AND CLASSIFICATION

Governmental financial information is reported in budgets and external financial reports. NCGA-1 notes that it is advantageous to use common terminology and classification schemes throughout the “budget, the accounts, and the financial reports of each fund”.

ANNUAL FINANCIAL REPORTS

The GASB recommends but does not require that a governmental entity prepare and publish a comprehensive annual financial report (CAFR) “as a matter of public record.” The financial reporting entity consists of (1) the primary government, (2) other entities for which the primary government is financial accountable, and (3) other entities that have a relationship with the primary government whose “exclusion would cause the reporting entity’s basic financial statements to be misleading or incomplete.”

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SECTION 3 BUDGETING AND OTHER FINANCIAL LEGAL MATTERS

BUDGET PREPARATION AND SCHEDULES

THE COUNTY BUDGET

Act No. 2007-488 rewrote and reorganized many of the Code sections related to preparing and approving the county budget. These revised provisions are applicable for all budget preparation, adoption, and amendments following the Act's effective date of September 1, 2007.

Deadline for Budget

Code of Alabama 1975, § 11-8-3 requires that the county commission adopt its annual budget no later than October 1 of each year. In order to meet this deadline, counties must begin work on the budget several months in advance.

Submitting Financial Information to County Commission

Code of Alabama 1975, § 11-8-3 requires that the county commission be provided certain information needed to develop the budget no later than 60 days prior to the meeting at which the budget will be adopted. Under this provision, the following information must be provided:

- (1) All county officials receiving public funds or issuing orders for payment out of the county treasury must submit an estimate of revenues and expenditures for the next fiscal year,
- (2) All county officials and employees named by the county commission (such as department heads) must submit an itemized estimate of financial needs for the next fiscal year, and
- (3) Any official entitled to any ex officio fees must include in his or her report, the anticipated amount to be received from such fees.

It is recommended that the county commission establish a schedule for budget preparation, including deadlines for county officials and employees to provide budget information. A suggested schedule is attached.

The County Budget

Code of Alabama 1975, § 11-8-3 requires that the following information be included in the county budget adopted:

- (1) An estimate of all anticipated revenue, including unexpended balances;
- (2) An estimate of county expenditures; and
- (3) Appropriations for expenditures.

The budget *must* include reasonable expenditures for county officials and all county buildings and offices. Additionally, the appropriations in the budget *cannot* exceed estimated county revenues for the budget year.

County's Obligations under the Budget

Following the adoption of the budget, any obligations incurred by a county official or employee above those amounts included in the budget shall *not* be an obligation of the county unless approved by majority vote of the *members* of the county commission. See, *Code of Alabama 1975*, § 11-8-3(f).

This is a very important provision which protects the county commission against being responsible for unauthorized spending by other county officials. However, the county commission is responsible for enforcing this provision – and should establish procedures to notify officials and department heads when they are in danger of exceeding their budget allocations.

Amending the Budget

Code of Alabama 1975, § 11-8-3(g) authorizes the county commission to amend the budget by an affirmative vote of a majority of the *members* of the county commission. However, the budget cannot be amended to authorize an expenditure exceeding anticipated revenue of the county except where specifically authorized by law.

It is recommended that the county only amend the budget when unanticipated circumstances require changes in amounts appropriated. It should *not* be used to allow department heads to exceed the limits of their original budget allocation.

BUDGET SCHEDULE

- 1) By June 15, the Chief Administrative Officer (CAO) of each County should send a notification to each Federal, State and County official responsible for distributing revenues to or collecting revenues on behalf of the County Commission requesting an estimate of the amount of revenues for the next fiscal year. This request should give the recipient a deadline of July 31 to submit these estimates to the county commission.
- 2) By June 15, the CAO should send a notification to each public official that receives or expends public funds from the County Commission requesting a detailed appropriation estimate for his or her department for the next fiscal year. This request should give the recipient a deadline of July 15 to submit these requests to the county commission.
- 3) After receiving and compiling the appropriation requests, along with other expected expenditures of County funds, the CAO should prepare a detailed summary of these requested expenditures for presentation to the members of the County Commission by August 31.
- 4) The CAO should also prepare a report which should include a comparison detailing the estimated appropriations and the requested expenditures as well as recommendations of adjustments to the requested appropriations in an amount necessary to bring the projected expenditures into balance with estimated revenue. This report should also be presented to the members of the County Commission by August 31.
- 5) The CAO should present a tentative budget to the Commission at the first meeting in September and allow the Commissioners to voice concerns about and offer direction regarding changes to the recommendations.
- 6) The CAO should prepare a final draft budget for submission to the Commission no later than the second meeting in September and ask the Commission to approve the final draft budget. If further time is needed by the Commission, it should schedule a special called meeting for the purpose of giving final approval to the budget sometime before October 1.

List of Budget Worksheet Files

Filename: Budget Worksheets.xls

(Click on the hyperlink of your choice to go to the applicable sheet in the file)

Summary of Budgeted Appropriations and Expenditures ([Budget Summary](#))

General Fund – Budget Worksheet – Revenue ([GF Revenue & Other Sources](#))

Summary of General Fund Expenditure Budget as Recommended ([Summary GF Exp](#))

County Commission (001-51100) Budget Worksheet ([51100](#))

Revenue Commissioner (001-51600) Budget Worksheet ([51600](#))

Sheriff's Department (001-52100) Budget Worksheet ([52100](#))

Jail (001-52200) Budget Worksheet ([52200](#))

Gas Tax Fund (111) Budget Worksheet – Revenue ([111 Revenue - Other Sources](#))

Gas Tax Highway Department (111-53100) Budget Worksheet ([111-53100](#))

Road & Bridge Fund (112) Budget Worksheet – Revenue ([112 Rev–Other Sources](#))

Road & Bridge (112-53100) Budget Worksheet ([112-Exp and Other Uses](#))

Public Highway & Traffic Fund (113) Budget Worksheet – Revenue ([113-Rev and Other Sources](#))

Public Highway & Traffic (113-53100) Budget Worksheet ([113-Exp and Other Uses](#))

RRR Gas Tax Fund (117) Budget Worksheet – Revenue ([117-Rev and Other Sources](#))

RRR Gas Tax (117-53100) Budget Worksheet ([117-Exp and Other Uses](#))

Reappraisal Fund (120) Budget Worksheet – Revenue ([120- Rev and Other Sources](#))

Reappraisal (120-51810) Budget Worksheet ([120 Exp and Other Uses](#))

Probate Judge Office/Index Fund (130) Budget Worksheet – Revenue ([130 – Revenue](#))

Probate Judge Office/Index (130-various) Budget Worksheet ([130-Exp](#))

MV Special Training Fund (136) Budget Worksheet – Revenue ([136-Rev](#))

MV Special Training (136-51310) Budget Worksheet ([136-Exp](#))

Salary Budget Worksheet Format ([Budget-Salary Worksheet](#))

Filename: Salary Budget Worksheet Format.xls

OTHER FINANCIAL LEGAL MATTERS

OTHER IMPORTANT FINANCIAL MATTERS

Annual Tax Levies

As discussed in the section on ad valorem taxes, *Code of Alabama 1975*, § 40-7-42 requires that the county commission set its tax levies for the year at its first regular meeting in February of each year.

Self-Administering of Sales and Related Taxes

Code of Alabama 1975, § 11-3-11.2 authorizes counties to contract for the collection and/or auditing of local sales and use taxes levied by general or local act. In the alternative, counties may collect and audit these taxes using county forces. Counties may also contract with the Department of Revenue for the collection of taxes. See, *Code of Alabama 1975*, § 11-3-11.3. The Department may charge counties the actual cost of collection, but not to exceed 2% of the amount collected.

The county is authorized to establish its own rules and regulations related to collection and audit of local taxes. However, all local taxes must parallel the corresponding state tax levies except for rate, and any local rules and regulations cannot conflict with those rules and regulations established by the Department of Revenue – and the county must comply with the Alabama Taxpayer Bill of Rights in all of its collection and auditing activities.

County Government Capital Improvement Fund

Amendment 666 of Alabama's Constitution and *Code of Alabama 1975*, § 11-29-1 *et seq.* provide for counties to receive annually 10% of the trust income from the Alabama Trust Fund. Distribution to the counties is made annually on April 15. See, *Code of Alabama 1975*, § 11-29-6.

Section 11-29-6 also provides the appropriate uses for proceeds from the Alabama Trust Fund:

- Construction, renovation, and furnishing or equipping public buildings
- Purchasing lands for public buildings
- All expenditures for public water and waste water treatment and drainage facilities
- Up to 50% on roads and bridges
- Payment of county debt for items set out above
- Operation and maintenance of county health department
- Operation and maintenance of county department of human resources

Claims Against Counties

There are several important Code sections related to claims made against the county.

Code of Alabama 1975, § 11-12-5 provides that no claims can be paid unless itemized by the claimant.

Code of Alabama 1975, § 11-12-8 provides that all claims must be presented within 12 months after they accrue or become payable. Any claim not submitted to the county commission for payment within this time frame is barred.

Code of Alabama 1975, § 11-12-15 sets out a priority for certain claims to be paid by the county commission. In summary, this section provides the following priorities:

- (1) Costs of the jail, insurance premiums on county buildings, and premiums on surety bonds for county officials
- (2) Compensation for county officials
- (3) Claims for office supplies for county officials
- (4) Appropriations to county extension offices
- (5) Interest on bonds

Responsibility for Office Supplies and Expenses

There are several Code sections setting out the county commission's obligations to provide adequate supplies and expenses to the offices of the various county officials. For example, *Code of Alabama 1975*, § 11-3-11(a)(1) requires the county commission to provide for the courts and other offices required to be in the courthouse. *Code of Alabama 1975*, § 11-12-13 requires the county commission to provide utilities to all courthouse offices and *Code of Alabama 1975*, § 11-12-14 provides that the offices of the various county officials are entitled to reasonable expenses for office needs.

Code of Alabama 1975, § 36-22-18 requires the county commission to furnish the sheriff with necessary office space and supplies, including automobiles. *Code of Alabama 1975*, § 40-4-8 and § 40-6A-5 have similar provisions regarding the offices of tax officials.

There are other provisions addressing the county's obligation to provide for the offices of county officials and offices.

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SECTION 4

CHART OF ACCOUNTS

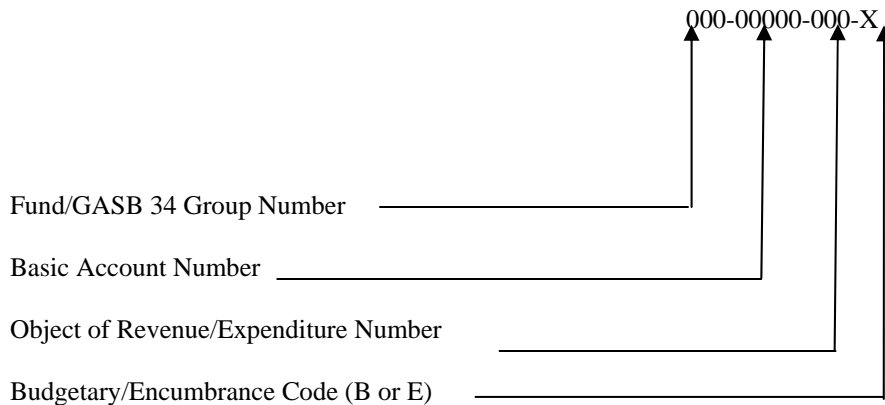
USING THE CHART OF ACCOUNTS – AN INTRODUCTION

The chart of accounts presented in this section was specifically developed for use by Alabama counties in conjunction with the implementation of the Alabama County Finance Manual. While the various accounts reflect current practice and use among Alabama counties to some degree, both the account titles and account numbers are primarily intended to aid Alabama counties in implementing the generally accepted accounting principles and modern financial management practices presented in this manual.

Although the chart of accounts is intended to be comprehensive, both the changing role of Alabama counties and emerging national trends in public financial management and reporting require a flexible and necessarily somewhat open-ended account system. This means that some funds and accounts currently in use or to be used in the future by Alabama counties may not be included in the chart of accounts. These will be added as their use becomes generally recognized and necessary. The chart of accounts will therefore remain a flexible and adaptive mechanism.

ACCOUNT NUMBERING FORMAT

The chart of accounts presented in this manual uses an eleven-digit account number, in three parts (three digits – five digits – three digits), plus a letter code (B or E) for budgetary and encumbrance accounts, as follows:



However, the Department of Examiners of Public Accounts appreciates that certain realities will make it difficult and/or quite costly for some counties to incorporate certain aspects of the manual's chart of accounts. Consequently, the Department is not requiring the counties to use the manual's chart of accounts exactly as it is given. The Department does encourage each county to follow this standard chart of accounts as much as possible within their particular circumstances. For those counties which choose not to use this standard chart of accounts, the Department requires only that their organization of funds and accounts, including the fund

and account numbering system, must be in accordance with the accounting and financial reporting requirements of generally accepted accounting principles (GAAP).

For example: (1) the three fund types and two groups should be used as necessary to account for county activities; (2) operating transfers between funds should be accounted for separately; (3) revenues should be classified by fund, source and GASB 34 classification and expenditures should be classified by fund, function, organization unit, character and object; etc. As long as a county's chart of accounts facilitates the preparation of financial statements which are in accordance with GAAP, the Department will not be critical concerning a departure from this manual's chart of accounts.

USING THE CHART OF ACCOUNTS

The standard chart of accounts presented in this manual is structured in accordance with generally accepted accounting principles and has been developed to include the funds and accounts which are commonly used. It would be impossible to provide every fund and account needed by each county. As new funds or accounts are identified which would be used by a significant number of counties, the chart of accounts will be updated by the Examiners and the updates will be provided to the counties.

To ensure that no county is already using a fund or account number which is to be added to the standard chart at a later date, specific fund and account numbers have been set aside, marked "Reserved for local use."

Following are specific instructions (addressed to county clerks/administrators) for choosing appropriate account numbers.

Choosing a fund or account title/number from the established list. First, decide the fund for which the transaction should be recorded. Choose that fund number from the list of funds or, if the fund is unique to your county, choose one of the fund numbers reserved for local use. Then, determine the account involved with the transaction. Choose the account number for this account from the list by searching the appropriate section (assets, liabilities, revenues, expenditures, etc.) For example, if you wanted to account for petty cash in the Gasoline Tax Fund, you would find the Fund Number is 111 for the Gasoline Tax Fund and the account number for petty cash is found under "ASSETS, DEFERRED CHARGES AND OTHER DEBITS", series 10000-19999, and "CURRENT ASSETS", 10000-16999. The petty cash series is 11300 to 11399, with 11300 designated as the account number to be used by counties having only one petty cash account. Therefore, if you will only have one petty cash account in the Gasoline Tax Fund, select 111-11300.

For expenditures, you will also need to select an expenditure object code to match the budgeted line item. For revenues, you will also need an object code for classification on the Statement of Activities; however, most revenues already have an assigned object code. For revenues with an (*) somewhere in the sequence, follow the instructions for selection below the account. If you have a unique revenue for your county, you will need to use the theories described on the following pages to select the proper revenue object code.

1 st digit	PROGRAM REVENUE TYPE	Last 2 digits	PROGRAM REVENUE FUNCTION	All 3 digits	“General Revenue” Classification
7	Charges for Services	10	General Government	000	Miscellaneous
8	Operating Grants and Contributions	20	Public Safety	001	Property Taxes - General
9	Capital Grants and Contributions	30	Highways and Roads	002	Property Taxes - Special
		40	Sanitation	003	Reserved for local use - Property Tax
		50	Health	004	Reserved for local use - Property Tax
		60	Welfare	005	Sales and Use Tax - General
		70	Culture and Recreation	006	Sales and Use Tax - Special
		80	Education	007	Reserved for local use - Sales Tax
		90	Intergovernmental	008	Reserved for local use - Sales Tax
				009	County Sales Tax - Gasoline
				010	County Diesel Fuel Tax
				011	Reserved for local use -
				012	Reserved for local use
				013	Reserved for local use
				014	County Beer Tax
				015	Reserved for local use
				016	County Tobacco Tax
				017	Reserved for local use
				018	County Lodging Tax
				019	Reserved for local use
				020	Miscellaneous Taxes
				021	Reserved for local use
	Examples:			022	Reserved for local use
	820 – OGC for Public Safety			023	Grants/Contributions not restricted for specific programs
	002 – Gen Rev – Property Tax Special			024	Reserved for local use
	710 – CFS for Gen Govt			025	Unrestricted Investment earnings
	930 – CGC for Hwy & Roads			026	Reserved for local use
	025 – Gen Rev – Unrestr. Inv. Earnings			027	Gain or loss on Disposition of Capital Assets
				028	Reserved for local use
				029	Net Increase/(Decrease) in Fair Value of Investments
				030	Gain on extinguishment of debt
				031-099	Reserved for local use

You may use the following excerpts from GASB Statement Number 34 to help you decide which revenue object code should be used with the revenue account in question:

47. Programs are financed from essentially four sources:
- a. Those who purchase, use, or directly benefit from the goods or services of the program (This group may extend beyond the boundaries of the reporting government's taxpayers or citizenry or be a subset of it.)
 - b. Parties outside the reporting government's citizenry (This group includes other governments and nongovernmental entities or individuals.)
 - c. The reporting government's taxpayers (This is all taxpayers, regardless of whether they benefit from a particular program.)
 - d. The governmental institution itself (for example, through investing).

For the purposes of the statement of activities:

- Type a is always a program revenue.
- Type b is a program revenue, if restricted to a specific program or programs. If unrestricted, type b is a general revenue.
- Type c is always a general revenue, even if restricted to a specific program.
- Type d is usually a general revenue.

Program Revenues

48. Program revenues derive directly from the program itself or from parties outside the reporting government's taxpayers or citizenry, as a whole; they reduce the net cost of the function to be financed from the government's general revenues. The statement of activities should separately report three categories of program revenues: (a) charges for services, (b) program-specific *operating* grants and contributions, and (c) program-specific *capital* grants and contributions. For identifying the function to which a program revenue pertains, the determining factor for *charges for services* is which function *generates*¹ the revenue. For *grants* and *contributions*, the determining factor is the function to which the revenues are *restricted*. (see program revenue type column in chart above)
49. *Charges for services* is the term used for a broad category of program revenues that arise from charges to customers, applicants, or others who purchase, use, or directly benefit from the goods, services, or privileges provided, or are otherwise directly affected by the services. Revenues in this category include fees charged for specific services, such as water use or garbage collection; licenses and permits, such as dog licenses, liquor licenses, and building

¹ In some instances it may be difficult or impractical to identify a specific function that generates a program revenue. For example, in many jurisdictions fines could be attributed to either a public safety or judicial function. If the source of a program revenue is not clear, governments should adopt a classification policy for assigning those revenues and apply it consistently.

permits; operating special assessments, such as for street cleaning or special street lighting; and any other amounts charged to service recipients. Fines and forfeitures are also included in this category because they result from direct charges to those who are otherwise directly affected by a program or service, even though they receive no *benefit*. Payments from other governments for goods or services—for example, when County A reimburses County B for boarding County A’s prisoners—also should be reported in this category. (1st digit of object code would be 7 for these)

50. *Program-specific grants and contributions (operating and capital)* include revenues arising from mandatory and voluntary nonexchange transactions with other governments, organizations, or individuals that are restricted for use in a particular program. Some grants and contributions consist of capital assets or resources that are restricted for *capital* purposes—to purchase, construct, or renovate capital assets associated with a specific program. These should be reported separately from grants and contributions that may be used either for operating expenses or for capital expenditures of the program at the discretion of the reporting government. These categories of program revenue are specifically attributable to a program and reduce the net expense of that program to the reporting government. For example, a state may provide an operating grant to a county sheriff’s department for a drug-awareness-and-enforcement program or a capital grant to finance construction of a new jail. Multipurpose grants (those that provide financing for more than one program) should be reported as program revenue if the amounts restricted to each program are specifically identified in either the grant award or the grant application. Multipurpose grants that do not provide for specific identification of the programs and amounts should be reported as general revenues.

(In other words, if the program revenue is restricted to capital purposes only, it would be a *Capital* grant and contribution. Otherwise, a program revenue in this category will be considered an *Operating* grant and contribution. The 1st digit of the object code would be 8 for *Operating* grants and 9 for *Capital* grants.)

General Revenues

52. All revenues are general revenues unless they are required to be reported as program revenues, as discussed above. All taxes, even those that are levied for a specific purpose, are general revenues and should be reported by type of tax—for example, sales tax, property tax, franchise tax, income tax. All other nontax revenues (including interest, grants, and contributions) that do not meet the criteria to be reported as program revenues should also be reported as general revenues. (see the General Revenue classification column in the chart above)

Therefore, for program revenues, the 1st digit of the 3-digit object code is designated by the type of program revenue (Charges for Services, Operating Grants or Capital Grants). The last 2 digits will be designated by the function which generated the revenue for Charges for Services and the function to which the revenue is restricted for Operating Grants and Capital Grants. For general revenues, one of the predetermined object codes should be used unless your county has a significant source of revenue that would need to be separately identified on the Statement of Activities. If so, pick one in the appropriate sequence that is reserved for local use.

SUMMARY LIST OF FUND AND ACCOUNT GROUP CATEGORIES, TYPES AND SERIES

<u>FUND CATEGORY: GOVERNMENTAL FUNDS</u>	000-499
FUND TYPE: GENERAL FUNDS	000-099
Reserved for local use for General Funds	050-099
FUND TYPE: SPECIAL REVENUE FUNDS	100-299
<u>State and Local Special Revenue Funds</u>	100-229
Reserved for local use for State and Local Special Revenue Funds (Includes state grant funds)	100-110 176-229
<u>Federal Special Revenue Funds</u>	230-299
Reserved for local use for Federal Special Revenue Funds	240-299
FUND TYPE: DEBT SERVICE FUNDS	
Reserved for local use	300-399
FUND TYPE: CAPITAL PROJECTS FUNDS	
Reserved for local use	400-489
FUND TYPE: PERMANENT FUNDS	
Reserved for local use	490-499
<u>FUND CATEGORY: PROPRIETARY FUNDS</u>	500-699
FUND TYPE: ENTERPRISE FUNDS	500-599
Reserved for local use for Enterprise funds	541-599
FUND TYPE: INTERNAL SERVICE FUNDS	600-699
Reserved for local use for Internal Service Funds	613-699
<u>FUND CATEGORY: FIDUCIARY FUNDS</u>	700-799
AGENCY FUNDS	700-749
Reserved for local use for Agency Funds	740-749

TRUST FUNDS	750-799
Reserved for local use for Trust Funds (Includes all Pension, Investment and Private-purpose)	786-799

GASB 34 GROUPS /ACCOUNTS

CAPITAL ASSETS 800

GENERAL LONG-TERM DEBT 900

MASTER LIST OF FUND/ACCOUNT GROUP NUMBERS

	<u>Number Series</u>	<u>Fund Number</u>
FUND CATEGORY: GOVERNMENTAL FUNDS	000-499	
<i>Those funds through which most governmental functions typically are financed. Governmental funds are used to account for the acquisition, use and balances of the county's expendable resources and the related current liabilities. The governmental fund focus is upon determination of <u>financial position</u> and <u>changes in financial position</u>. (The five types of funds in the governmental fund category are: General Funds; Special Revenue Funds; Debt Service Funds; Capital Projects Funds; and Permanent Funds.)</i>		
<u>FUND TYPE: GENERAL FUNDS</u>	<u>000-099</u>	
General Fund		001
<i>To account for all resources except those required to be accounted for in another fund.</i>		
Contingent Fund		002
<i>To account for all resources spent in accordance with local legislation which establishes a Contingent Fund for the county.</i>		
Reserved for local use for General Funds	050-099	
<u>FUND TYPE: SPECIAL REVENUE FUNDS</u>	<u>100-299</u>	
<i>To account for specific revenues which are <u>legally</u> restricted to expenditures for specified purposes.</i>		
State and Local Special Revenue Funds	100-229	
<i>Special Revenue Funds whose revenues are derived from State and local sources.</i>		
Reserved for local use for State and Local Special Revenue Funds	100-110	
Gasoline Tax Fund		111
<i>To account for the expenditure of 7 cent State gasoline tax revenue for construction, improvement, maintenance and supervision of highways, bridges and streets, and for the retirement of bonds for which gasoline tax revenues have been pledged. National forest revenue must be used for public roads. (Code of Alabama, 1975, Sections 40-17-31 and 40-17-78)</i>		
Public Buildings, Roads and Bridges Fund		112
<i>To account for the expenditure of special county property tax revenue for the payment of any debt incurred for building and maintaining necessary public buildings, roads and bridges. Any excess over the debt payable can be transferred to the General Fund (Code of Alabama, 1975, Section 11-14-11).</i>		
Public Highway and Traffic Fund		113
<i>To account for the expenditure of motor vehicle license taxes and fees and drivers' license revenues for the construction, improvement and maintenance of public highways and streets. (Code of Alabama 1975, Section 40-12-270)</i>		

Capital Improvement Fund

116

*To account for the county's share of distribution from the Alabama Trust Fund. Provided by the **Code of Alabama, 1975, Section 11-29-6**. Restricted to expenditures for Public Buildings, Solid Waste, Public Utilities, Roads and Bridges up to 50% of funds, Bonds and Warrants, Public Health, and Pensions and Security.*

RRR Gasoline Tax Fund

117

*To account for the State 4 cent gasoline tax for the resurfacing, restoration and rehabilitation of the existing paved county roads and bridges and for bridge replacement. (**Code of Alabama, 1975, Section 40-17-224**)*

*To account for the State 5 cent supplemental gasoline tax for the resurfacing, restoration and rehabilitation of existing paved county roads and bridges as match on any federal aid project or for new construction. (**Code of Alabama, 1975, Section 40-17-74.1**) The amounts of 5 cent gasoline tax proceeds expended for match on federal aid projects and/or new construction should be fully documented and should not exceed the total deposits of 5 cent gasoline tax monies included in the RRR Gasoline Tax Fund.*

The additional excise tax provided by Act Number 2004-546, Acts of Alabama, may also be deposited here and expended in accordance with the restrictions applicable to this fund.

Secondary Road Fund

118

*To account for expenditure of State petroleum products inspection fees and penalties thereon for the construction of high density unpaved roads or for the reconstruction, resurfacing, restoration and rehabilitation of paved county roads and bridges or bridge replacement within the county. Approval of plans for the expenditure of petroleum inspection fees by the State Highway Director must be received before any expenditures for such projects can be made. Counties may deposit petroleum inspection fees to the RRR Gasoline Tax Fund and then expend those fees in accordance with the expenditure restrictions applicable to the RRR Gasoline Tax Fund. (**Code of Alabama, 1975, Sections 8-17-87 and 8-17-91**) The county's share of the State automobile license tax distributed under **Code of Alabama, 1975, Section 40-12-270 (a) (1)** may be deposited to the Secondary Road Fund and expended in accordance with the restrictions applicable to this fund. The additional excise tax provided by Act Number 2004-546, Acts of Alabama, may also be deposited here and expended in accordance with the restrictions applicable to this fund.*

Severed Material Severance Tax Fund

119

*To account for the revenues and expenditures relating to the severed material tax. The revenues remitted to a county shall be deposited into this fund held and dispensed by the county commission. At least 75 percent of such funds shall be allocated and utilized by the county for the construction, maintenance, and repair of the county's road system or, if provided by local legislation, for a local economic development authority, public transit, construction and maintenance of county roads and bridges, or the reclamation of lands where natural materials have been severed. Notwithstanding the foregoing, revenues distributed to Franklin shall be allocated and utilized exclusively for economic development. Twenty-five percent of the funds distributed to a county as a result of the severance of materials from within the corporate limits of a municipality in the county shall be expended by the county on county roads or other projects within the corporate limits of that municipality. (**Code of Alabama 1975, Section 40-13-50 through 40-13-61**)*

	<u>Number Series</u>	<u>Fund Number</u>
Reappraisal Fund		120
<i>To account for property taxes and other revenues required to be expended for the costs of the property reappraisal program. The two mill recoupment of reappraisal costs should be accounted for in this fund.</i>		
Tourism, Recreation and Conventions Fund		123
<i>To account for revenues, except grants, which are required to be expended for promoting tourism, recreation and conventions in the county.</i>		
Services for the Elderly Fund		124
<i>To account for revenues, except grants, which are required to be spent to provide services to the county's elderly citizens.</i>		
Indigent Care Fund		125
<i>To account for revenues, except grants, which are required to be spent to provide services to county citizens who are economically unable to provide for themselves.</i>		
Beer Tax Fund		126
<i>To account for beer tax revenues from which expenditures can legally be made only for specified purposes.</i>		
Work Release Fund		128
<i>To account for the work release program for county inmates and state inmates housed in county jails. <u>Net pay</u> of program participants should be paid to the county by the employers. Of the <u>gross pay</u> amount, 25% should be recorded as program revenues (unless local legislation specifies a different percentage). The excess of net pay over 25% of gross pay is payable to the inmates. Expenditures of program revenues are restricted to payment of: jail improvements; inmates' transportation; salaries of jailors; matrons; jail utilities; inmates' food; miscellaneous supplies necessary to jail operations; and administration of the work release program. (Code of Alabama, 1975, Sections 14-8-30 through 14-8-44 and any applicable local legislation)</i>		
Law Library Fund		129
<i>To account for law library fees collected from court costs which may be expended only for the development and maintenance of the county's law library and only on the authority of requisitions signed by the Circuit or District Judge.</i>		
Probate Judge's Index Fee Fund		130
<i>To account for the receipt of certain document filing fees and their expenditure, which can only be made at the direction of the Probate Judge.</i>		
Supernumerary Fund		132
<i>To account for amounts deducted from county officials' gross pay which are accumulated by the county to be used to make payments to the official when he elects to change to supernumerary status. See Code of Alabama, 1975, Sections 36-22-40 through 36-22-45. These deductions may be accumulated in and the supernumerary payments may be made from the General Fund. This fund is provided for counties which may desire to keep a separate record of the deductions accumulated, any investment earnings thereon and the supernumerary payments made.</i>		

	<u>Number Series</u>	<u>Fund Number</u>
Sheriff's Pistol Permit Fund		134
<i>To account for the portion of pistol permit fees, which is earmarked for expenditure for the operation of the sheriff's department. Disbursements from this fund may only be made upon requisition by the sheriff.</i>		
Motor Vehicle Special Training Fund		136
<i>To account for revenues (not to exceed \$3,000 per fiscal year) derived from a fee charged to individuals for failure to register a vehicle timely by transferring the license plate. Amounts collected in excess of \$3,000.00 per fiscal year should be placed in the General Fund. The revenues in this fund may be used by the county official(s) and their employees responsible for assessment and collection of taxes on motor vehicles or registration and titling of motor vehicles for educational expenses directly related to duties (Code of Alabama 1975, Section 40-12-260).</i>		
Motor Vehicle Registration and Titling Technology Fund		138
<i>To account for revenues derived from a fee charged to individuals for failure to provide proof of mandatory liability insurance. This fund is to be used for all reasonable and necessary technology expenses directly related to the registration or titling, or both, of motor vehicles, including, but not limited to, the purchase of hardware or software, or both, for motor vehicle registration and titling activities. The fund is for the use of the official charged with motor vehicle registration and titling responsibilities and shall be in addition to the amount budgeted for the office of the official. Moneys in the fund shall be disbursed by the county commission for the payment of motor vehicle registration or titling-related technology expenses of those officials requisitioning expenditures from the fund. (Code of Alabama 1975, Section 32-7A-9(f))</i>		
Manufactured Home Trust Fund		140
Probate Judge Discretionary Fund		142
Revenue Commissioner Discretionary Fund		143
Tax Assessor Discretionary Fund		144
Tax Collector Discretionary Fund		146
License Commissioner Discretionary Fund		148
Tax Officials' Special Accounts	150-155	
<i>This series of fund numbers has been reserved for special accounts maintained in the offices of the Tax Officials probably provided for by local law that would be classified as special revenue funds. These will be used when these accounts are considered part of the Commission as primary government.</i>		
Probate Office Special Accounts	156-165	
<i>This series of fund numbers has been reserved for special accounts maintained in the Probate offices probably provided for by local law that would be classified as special revenue funds. These will be used when these accounts are considered part of the Commission as primary government.</i>		

Number Series **Fund Number**

Sheriff's Office Special Accounts

166-175

This series of fund numbers has been reserved for special accounts maintained in the Sheriff's office probably provided for by local law that would be classified as special revenue funds. These will be used when these accounts are considered part of the Commission as primary government.

State and Local Special Revenue Funds Reserved for local use

176-229

(includes State Grants Funds)

This series of fund numbers has been reserved for grants received from State departments, agencies or boards and local organizations where the kinds of expenditures which can be made from the grant revenues are specifically identified by the grant document. When establishing a fund within this number series, the fund title should clearly state the source and the grant number. (For example: 1 Cent Sales Tax Fund)

Federal Special Revenue Funds

230-299

Emergency Management (Civil Defense) Fund

232

To account for the expenditure of federal funds which are restricted to preparing for and responding to natural disaster and other emergencies.

Federal Special Revenue Funds Reserved for local use

240-299

This series of fund numbers has been reserved for each county to use as needed to account for grants received from federal departments and agencies where the kinds of expenditures which can be made from grant revenues are specifically identified by the grant document. When establishing a fund within this number series, the fund title should clearly state the source of the grant, the purpose of the grant and the grant number, if any. For example: ADECA Housing Weatherization Grant #00XXXX. This number series should also be used in cases where the county receives federal grant funds channeled through a State agency.

FUND TYPE: DEBT SERVICE FUNDS

300-399

Reserved for local use

300-399

To account for the accumulation of resources for and the payment of general long-term debt principal and interest. Each county's debt offerings will be unique. Begin numbering the Debt Service Funds with fund number 301. The title of the fund should indicate the year the debt was issued and a description of the debt issue. (For example: 1994 General Obligation Bonds Debt Service Fund or 1995 Gasoline Tax Anticipation Warrants Debt Service Fund.)

FUND TYPE: CAPITAL PROJECTS FUNDS

400-489

Reserved for local use

400-489

To account for financial resources to be used for the acquisition or construction of major capital facilities other than those financed by Proprietary Funds and similar Trust Funds. Each county's capital projects, if any, will be unique. Begin numbering the Capital Projects Funds with fund number 401. The title of the fund should indicate the nature of the capital project. (For example: Courthouse Annex Construction Capital Projects Fund)

	<u>Number Series</u>	<u>Fund Number</u>
<u>FUND TYPE: PERMANENT FUNDS</u>	490-499	
Reserved for local use	490-499	
<i>Permanent funds are used to report resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that support the reporting government's programs—that is, for the benefit of the government or its citizenry. (Permanent funds do not include <u>private-purpose trust funds</u> which should be used to report situations in which the government is required to use the principal or earnings for the benefit of individuals, private organizations, or other governments.)</i>		
<u>FUND CATEGORY: PROPRIETARY FUNDS</u>	500-699	
<u>FUND TYPE: ENTERPRISE FUNDS</u>	500-599	
Solid Waste Disposal Fund		510
<i>To account for the combined operations of solid waste collection and disposal where the commission wants to know the net income of the combined operation for general management purposes and for the purposes of setting rates to be charged for these services.</i>		
Solid Waste Collection Fund		511
<i>To account for the solid waste collection operation in a manner in which will compute the operation's net income for the commission's use in making general management decisions and in establishing user charges.</i>		
Landfill Fund		512
<i>To account for the operation of the county landfill(s) on a full accrual basis so that the landfill's net income can be computed for use by the commission in setting landfill dumping fees and other management decisions.</i>		
Water and Sewer System Fund		520
<i>To account for the combined operations of the water and sewer system where the commission wants to know the net income of the combined operation for general management purposes and for the purpose of setting rates to be charged for these services.</i>		
Water System Fund		521
<i>To account for the operation of a county water system in a manner which will compute the system's net income for the commission's use in making general management decisions and in establishing user charges.</i>		
Sewer System Fund		522
<i>To account for the operation of a county sewer system on a full accrual basis so that the system's net income can be computed for use by the commission in setting system user charges and other management decisions.</i>		
Emergency 911 Fund		530
<i>To account for an emergency telephone service charge provided for the establishment and operations of an Emergency 911 District.</i>		
Airport Fund		540
<i>To account for the operation of a county airport on a full accrual basis so that the airport's net income can be calculated for use by the commission in setting landing fees, hangar rental rates, etc., and in making other management decisions.</i>		

	<u>Number Series</u>	<u>Fund Number</u>
Reserved for local use for Enterprise Funds	541-599	
<u>FUND TYPE: INTERNAL SERVICE FUNDS</u>	600-699	
<i>To account for the financing of goods or services provided by one county department or agency to other departments or agencies of the county or to other governmental units on a cost-reimbursement basis.</i>		
Central Supply Funds		610
<i>To account for the financing of office and other supplies provided to county offices and departments where the offices and departments will be charged for the cost of the supplies received.</i>		
Data Processing Services Fund		611
<i>To account for the financing of the county's Data Processing Department where the cost of services provided by Data Processing to other county departments will be charged to those other county departments.</i>		
Self Insurance Fund		612
Reserved for local use for Internal Service Funds	613-699	
<u>FUND CATEGORY: FIDUCIARY FUNDS</u>	700-799	
<i>To account for assets held by the county in a trustee capacity or as an agent for individuals, private organizations and other governmental units.</i>		
 <i>TRUST FUNDS are accounted for in essentially the same manner as Proprietary Funds (full accrual). Pension Trust Funds are Trust Funds used to account for public employee retirement systems. Investment Trust Funds are Trust Funds used to account for the external portion of investment pools. Private-purpose Trust Funds are Trust Funds used to account for all other trust arrangements, under which principal and interest benefit individuals, private organizations, or other governments. AGENCY FUNDS are purely custodial (assets equal liabilities) and thus do not involve measurement of results of operations. The title of each Trust and Agency Fund should indicate in parentheses whether it is a Private-purpose Trust, Investment Trust, Pension Trust or Agency Fund.</i>		
<i>AGENCY FUNDS (700-749)</i>		
Accounts Payable Clearing Fund (Agency)		700
<i>To account for the receipt of cash from other county funds to be used for the payment of all county accounts payable from a single checking account.</i>		
Payroll Fund (Agency)		702
<i>To be used by counties which choose to issue all payroll checks from a single fund. May also be used to account for the payment of other payroll liabilities.</i>		
Employees' Insurance Fund (Agency)		704
<i>To be used by counties which choose to account for payment of employees' insurance premiums through a separate fund.</i>		

	<u>Number Series</u>	<u>Fund Number</u>
Employees' Retirement Fund (Agency) <i>To be used by counties which choose to account for payment of employees' retirement contributions through a separate fund.</i>		706
Employees' Payroll Withholding Taxes Fund (Agency) <i>To be used by counties which choose to account for payment of employees' withholding taxes through a separate fund.</i>		708
Employees' Social Security Taxes Fund (Agency) <i>To be used by counties which choose to account for payment of employees' social security taxes through a separate fund.</i>		710
Unemployment Tax Fund (Agency) <i>To be used by counties which choose to account for payment of unemployment taxes through a separate fund.</i>		712
Sales Tax Collection (Agency)		714
Land Redemption Fund (Agency) <i>To account for the redemption by the original owner of property sold to collect delinquent property taxes. The original owner must pay the probate judge the amount for which the property was sold plus interest thereon from the date of the sale plus all property taxes paid by the purchaser since the date of sale plus any property taxes due and unpaid at the date of redemption plus any fees due including a fee to the probate judge. The purchaser will be notified of such redemption and upon surrender of his certificate of purchase, must be refunded his purchase price plus the interest thereon plus the amount of any taxes paid by the purchaser.</i>		716
(One Cent) School Tax Fund (Agency) <i>To account for the collection of a county gasoline or sales tax levied to benefit the county schools. The tax is collected by the county and then remitted to the county board of education through this fund. Unless this separate fund is required by law, the collection and payment of such a tax may be accounted for within the General Fund.</i>		718
Forestry Fund (Agency)		720
Beer Tax Fund (Agency) <i>To account for the collection of the beer tax levied by the county and its distribution to the various county agencies to whom the tax is due. This fund may also be used to account for the collection of beer taxes levied by cities within the county and the remittance of municipal beer taxes to the cities, less any administrative fee charge to the cities.</i>		722
TVA Payments in Lieu of Taxes Fund (Agency) <i>To account for the receipt of payments in lieu of property taxes from the Tennessee Valley Authority and the distribution of these payments to the various county agencies which receive property taxes.</i>		724

	<u>Number Series</u>	<u>Fund Number</u>
Tax Assessor's Office Clearing Accounts (Agency)		726
<i>To account for the bank accounts in the Tax Assessor's office which are used to deposit collections and make distributions to various agencies as clearing accounts. These will be used when these accounts are considered part of the Commission as primary government.</i>		
Tax Collector's Office Clearing Accounts (Agency)		728
<i>To account for the bank accounts in the Tax Collector's office which are used to deposit collections and make distributions to various agencies as clearing accounts. These will be used when these accounts are considered part of the Commission as primary government.</i>		
Revenue Commissioner's Office Clearing Accounts (Agency)		730
<i>To account for the bank accounts in the Revenue Commissioner's office which are used to deposit collections and make distributions to various agencies as clearing accounts. These will be used when these accounts are considered part of the Commission as primary government.</i>		
License Commissioner's Office Clearing Accounts (Agency)		732
<i>To account for the bank accounts in the License Commissioner's office which are used to deposit collections and make distributions to various agencies as clearing accounts. These will be used when these accounts are considered part of the Commission as primary government.</i>		
Judge of Probate's Office Clearing Accounts (Agency)		734
<i>To account for the bank accounts in the Judge of Probate's office which are used to deposit collections and make distributions to various agencies as clearing accounts. These will be used when these accounts are considered part of the Commission as primary government.</i>		
Probate Court's Clearing Accounts (Agency)		736
<i>To account for the bank accounts in the Judge of Probate's office which are used to deposit Probate Court collections and make distributions to various agencies and individuals as clearing accounts. These will be used when these accounts are considered part of the Commission as primary government.</i>		
Sheriff's Office Clearing Accounts (Agency)	737-739	
<i>To account for the bank accounts in the Sheriff's office which are used to deposit collections and make distributions to various agencies and individuals as clearing accounts. These will be used when these accounts are considered part of the Commission as primary government.</i>		
Reserved for local use for Agency Funds	740-749	
<i>TRUST FUNDS (750-799)</i>		
Excess from Land Sales Fund (Private-purpose Trust)		750
<i>To account for the amounts in excess of property taxes due which have been paid by the purchasers of land sold to collect delinquent property taxes. This excess amount may be claimed by and paid to the original owner of the property; amounts still unclaimed after five years from the date of sale revert to the General Fund.</i>		

Number Series	Fund Number
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Fiduciary Fund (Private-purpose Trust) 755

To account for any assets which came under the control of the courts or the probate judge and which have been unclaimed for five years. Such assets are deposited into this fund after the five year period and any which remain in this fund, unclaimed, for another ten years may revert to the General Fund.

Unclaimed Witness Fee Fund (Private-purpose Trust) 760

To account for fees payable to witnesses in court cases which have not been claimed. Fees which remain unclaimed after five years revert to the General Fund.

Judge's and District Attorney's Fund (Private-purpose Trust) 765

To account for revenues from court fees which may be expended only at the direction of the District Attorney and/or Circuit and District Judge for the operation of their offices.

Worthless Check Fee Fund (Private-purpose Trust) 770

To account for the \$75 service charge collected by the District Attorney's Worthless Check Unit from accused persons who voluntarily surrender within ten business days of notice pursuant to notice of filing of a worthless check complaint against them or notice that a warrant has been issued for their arrest. Of this \$75 service charge, 35% may be expended by the county for its costs of administering the worthless check collection program. The remaining 65% of the service charge may be requisitioned by the District Attorney to pay the costs of operating his office. Specific expenditures may be made from this fund or the District Attorney to pay the costs of operating his office. Specific expenditures may be made from this fund or the District Attorney's 65% may be transferred to the District Attorney's Fund.

The \$30 service charge levied on victims who file a complaint and then withdraw the complaint for good cause is paid directly to the Worthless Check Unit and is not legally required to be deposited to the Worthless Check Fund.

*The service charge collected in cases where the accused does not voluntarily surrender and the case is prosecuted in court (service charge equal to 85% times the amount of court costs) is to be deposited to the General Fund to be used for law enforcement purposes. Restitution is to be collected by the Worthless Check Unit and deposited into a separate account for disbursement to the victim. In the event restitution collected cannot be paid to the victim because the victim cannot be located, the amount of such restitution should be paid into the General Fund to be used for law enforcement purposes. (See **Code of Alabama 1975**, Section 12-17-224)*

Child Support Fund (Private-purpose Trust) 775

To account for the collection costs and incentive money paid by the Department of Pensions and Security for the District Attorney's collection of delinquent child support. These funds may be transferred to the Judge's and District Attorney's Fund or may be requisitioned by the District Attorney to pay his office's costs to operate the collection program.

Judge of Probate's Fiduciary Account (Private-purpose Trust) 777

To account for the receipts, disbursements and balances on hand which are handled through the Judge of Probate's Fiduciary bank accounts. These will be used when these accounts are considered part of the Commission as primary government.

Number Series	Fund Number
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Sheriff's Office Accounts (Private-purpose Trust)

780-785

This series of funds will account for the various fiduciary-type funds that are maintained in the Sheriff's office that would be classified as Private-purpose Trust. These will be used when these accounts are considered part of the Commission as primary government.

**Reserved for local use for Trust Funds
(Includes Pension Trust and Investment Trust)**

786-799

GASB 34 GROUPS/ACCOUNTS

Accountability for and control of the county's capital assets and general long-term debt is achieved through a category of accounting entities called "groups". Groups are not funds - they do not show available financial resources, the related liabilities and resulting fund equity-but are self-balancing accounting records of capital assets and general long-term debt. They may also be used for GASB 34 conversion entries to convert from fund level accounting to government-wide and include the applicable revenues and expenditures necessary to accomplish the entries. This would include, but not be limited to capital outlay, depreciation, principal payments, etc.

CAPITAL ASSETS

800

To account for capital assets other than those accounted for in Enterprise, Internal Service or Private Purpose Trust Funds.

GENERAL LONG-TERM DEBT

900

To account for the unmatured long-term indebtedness of the county other than the long-term indebtedness directly related to and expected to be paid from Enterprise, Internal Service or Private Purpose Trust Funds. General long-term debt is not limited to liabilities arising from bond and warrant issues but may also include non-current liabilities on lease-purchase agreements, long-term portion of liability for compensated absences, and other commitments that are not current liabilities which are properly recorded in governmental funds.

MASTER LIST OF BASIC ACCOUNT NUMBERS

SUMMARY LIST OF BASIC ACCOUNT NUMBERS

ASSETS, DEFERRED CHARGES AND OTHER DEBITS	10000-19999
CURRENT ASSETS	10000-16999
Cash	11000-11999
Investments	12000-12999
Receivables	13000-13999
Due From Other Funds	14000-14499
Due From Other Governmental Units	14500-14999
Inventories	15000-15999
Prepaid Items	16000-16499
Unassigned	16500-16550
Lease Payments Receivable	16551-16599
NONCURRENT ASSETS	17000-18999
Fixed Assets	17000-17999
Other Noncurrent Assets and Deferred Charges	18000-18999
OTHER DEBITS	19000-19999
LIABILITIES AND DEFERRED REVENUES	20000-29999
CURRENT LIABILITIES	21000-24999
Accounts Payable	21100-21799
Debt Service Payables	21800-21899
Due to Other Funds	22000-22999
Due to Other Governmental Units	23000-23999
Other Current Liabilities	24000-24999
DEFERRED REVENUES	25000-25999
LONG-TERM LIABILITIES	26000-29999
Long-Term Liabilities Payable to Others	26000-26999
Advances From Other Funds	27000-27999
FUND EQUITY	30000-39999
INVESTMENT IN GENERAL FIXED ASSETS	32000-32999
Investment in GFA--Historical Cost/Donated Fair Value	32100-32199
Investment in GFA--Estimated Cost/Donated Fair Value	32200-32299

NET ASSETS	33000-33999
Restricted Net Assets	33050-33199
Unrestricted Net Assets	33200-33999
FUND BALANCE	34000-35999
Reserved Fund Balance	34000-34999
Unreserved Fund Balance	35000-35999
REVENUES	40000-49999
TAXES	41000-41999
Property Taxes	41100-41199
County Sales and Use Taxes	41200-41299
Other Taxes	41300-41399
LICENSES AND PERMITS	43000-43999
Business Licenses and Permits	43100-43199
Nonbusiness Licenses and Permits	43200-43999
INTERGOVERNMENTAL REVENUES	44000-44999
State Shared Revenues	44100-44199
State Cost Sharing	44200-44299
State Grants	44300-44399
Regional Agencies and Commissions Cost Sharing & Grants	44400-44499
Federal Shared Revenues	44500-44599
Federal Cost Sharing	44600-44699
Federal Grants	44700-44799
Federal Payments in Lieu of Taxes	44800-44899
Revenues from Local Governmental Units	44900-44999
CHARGES FOR SERVICES	45000-45999
Court Fees	45100-45199
Fees & Commissions of Public Officials	45200-45299
Enterprise Funds' Operating Revenues	45400-45499
Internal Service Funds' Operating Revenues	45500-45599
Non-Enterprise Public Services Fees	45600-45699
Charges for Services to Other than General Public	45800-45899
FINES AND FORFEITS	46000-46999
MISCELLANEOUS REVENUES	47000-47999
Interest Earned	47100-47199
Rental Revenue	47200-47299
Sales	47300-47399
Work on Private Property	47400-47499
Donations	47700-47799
Payments from Employees	47800-47899
Other Miscellaneous Revenues	47900-47999
RESERVED FOR LOCAL USE FOR REVENUES	49000-49999

EXPENDITURES	50000-59999
EXPENDITURES BY FUNCTION AND ORGANIZATION	50000-58999
FUNCTION: GENERAL GOVERNMENT	51000-51999
County Commission Expenditures	51100-51199
Court Expenditures	51200-51299
Probate Judge's Office	51300-51399
Tax Assessor's Office	51400-51499
Tax Collector's Office	51500-51599
Revenue/License Commissioner's Office	51600-51699
County Treasurer's Office	51700-51799
Reappraisal Maintenance	51800-51899
Other General Government Offices and Programs	51900-51999
FUNCTION: PUBLIC SAFETY	52000-52999
FUNCTION: HIGHWAYS AND ROADS	53000-53999
FUNCTION: SANITATION	54000-54999
FUNCTION: HEALTH	55000-55999
FUNCTION: WELFARE	56000-56999
FUNCTION: CULTURE AND RECREATION	57000-57999
FUNCTION: EDUCATION	58000-58999
EXPENDITURE BY CHARACTER	59000-59999
CHARACTER: DEBT SERVICE	59100
CHARACTER: INTERGOVERNMENTAL	59200
OTHER FINANCING SOURCES AND USES	60000-69999
OTHER FINANCING SOURCES	61000-61999
Operating Transfers In	61100-61199
Proceeds of Capital Asset Dispositions	61200-61299
Proceeds of Issuance of General Long-Term Debt	61300-61399
Local Use for Other Financing Sources	61800-61899
OTHER FINANCING USES	62000-62999
Operating Transfers Out	62100-62199
Other Uses	62200-62500
PRIOR PERIOD ADJUSTMENTS	80000

MASTER LIST OF BASIC ACCOUNT NUMBERS

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
<u>ASSETS, DEFERRED CHARGES AND OTHER DEBITS</u>	10000-19999	
<p><i>Assets are resources owned or held by the county, which have monetary value. Examples of assets are cash, supplies, furniture and equipment, etc. Deferred charges are expenditures/expenses paid in advance and then allocated to the fiscal years benefited by the payments. Deferred charges usually extend over a long period of time and are for costs other than normal operating costs; for example: issuance costs on bonds payable. Other debits are the debit balance accounts used to balance the liabilities recorded in the General Long-Term Debt Group.</i></p>		
CURRENT ASSETS	10000-16999	
<p><i>Current assets are those which are available to finance current operations or those which will become available soon enough after fiscal year-end to be used to pay the liabilities of the current fiscal year.</i></p>		
Cash (Reserved for Local Use for Cash in Banks)	11000-11999	
<p><i>Cash includes any items which would be accepted for deposit in a bank checking account, savings account, money market, NOW accounts.</i></p>		
Petty Cash (Reserved for Local Use)	11300-11399	11300
<p><i>Petty cash is an amount of currency and coins kept available for making relatively small cash payments for which it is impractical to make payments by check. As disbursements are made from petty cash, receipts are obtained then used to document the periodic reimbursement of petty cash. This series of account numbers may also be used for change funds (small quantities of coins and small bills kept available for making change).</i></p>		
Certificates of Deposit (For Certificates of Deposits with Maturity dates of 90 days or less)		11400
Cash with Fiscal Agents/Trustees (Reserved for Local Use)	11500-11599	
<p><i>To reflect cash deposited with a bank or other financial institution as an agent for the county or as a trustee on behalf of the county. Usually such deposits are for the purpose of making debt service payments of principal and interest to bondholders in accordance with the terms of a written contract or trust agreement or for the purpose of closing a long-term debt issuance.</i></p>		
Investments	12000-12999	
<p><i>Investments are assets held for the production of revenues, in the form of interest, dividends, rentals or lease payments. To be properly classified as current assets, investments must mature within the operating cycle or be easily converted into cash. Alabama counties are restricted to investing their idle cash by the <u>Code of Alabama 1975</u>, Section 11-81-21.</i></p>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Certificates of Deposit	12100-12199	12100
<i>Amounts of cash on deposit with financial institutions with maturity dates over 90 days which will earn a specified rate of interest if the deposit is maintained for a specified period of time.</i>		
Unamortized Premiums on Investments	12980-12989	12980
<i>This account has a <u>debit</u> balance equal to the amount in excess of face value which was paid for an investment at the date of purchase as a result of a difference between the stated and effective interest rates. As time passes and interest is earned on the investment, this account is reduced, resulting in a corresponding reduction in interest revenue.</i>		
Reserved for Local Use for Unamortized Premiums	12981-12989	
Unamortized Discounts on Investments	12990-12999	12990
<i>This account has a <u>credit</u> balance equal to the amount less than face value which was paid for an investment at the date of purchase as a result of a difference between the stated and effective interest rates. As interest is earned on the investment, this account is reduced, resulting in a corresponding increase in interest revenue.</i>		
Reserved for Local Use for Unamortized Discounts	12991-12999	
Receivables	13000-13999	
<i>Receivables are the county's claims against individuals or organizations for assets, usually cash. Interfund receivables are the claims of individual county funds against other county funds for assets.</i>		
Taxes Receivable	13200-13299	
<i>An asset should be recorded (cash or a receivable) and taxes should be "recognized (as revenue) in the period in which they become both measurable and available to finance expenditures of the fiscal period." (GASB <u>Codification</u>, 1600-106) "Taxes collected and held by one government agency [for example, the county commission] should be accrued at year end if they are to be remitted in time [within 60 days] to be used as...payment of obligations incurred during the preceding fiscal year." (GASB <u>Codification</u>)</i>		
<i>Millage rates for property taxes are levied at the first regular meeting of the Commission in February of each year. Property taxes are assessed for property as of October 1 of the preceding year based on the millage rates established by the County Commission. Property taxes are due and payable the following October 1 and are delinquent after December 31. Amounts receivable, net of estimated refunds and estimated uncollectible amounts, are recorded for the property taxes levied in the current year. However, since the amounts are not available to fund current year operations, the revenue is deferred and recognized in the subsequent fiscal year when the taxes are both due and collectible and available to fund operations.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
State Sales Taxes Receivable		13201
County Sales Taxes Receivable		13202
Reserved for Local Use for Taxes Receivable	13250-13299	
Interest Receivable	13300-13399	13300
<i>Used to account for the amount of interest earned on investments which has not yet been received.</i>		
Reserved for Local Use for Interest Receivable	13400-13499	
Accounts Receivable	13400-13499	13400
<i>To reflect the county's claims against its customers for services provided on a user charge basis or the sale of goods on account.</i>		
Reserved for Local Use for Accounts Receivable	13450-13499	
Due from Other Funds	14000-14499	
<i>These accounts should only include amounts, which are expected to be received within one year. Amounts which are expected to be received in more than one year should be recorded as Advances to _____ Fund (See account number 18200).</i>		
Due from General Funds	14101-14109	
Due from General Fund		14101
Due from Contingent Fund		14102
Reserved for Local Use for Due from General Funds	14103-14109	
Due from State and Local Special Revenue Funds	14110-14139	
Due from Gasoline Tax Fund		14111
Due from Public Buildings, Roads and Bridges Fund		14112
Due from Public Highway and Traffic Fund		14113
Due from RRR Gasoline Tax Fund		14117
Due from Secondary Road Fund		14118
Due from Reappraisal Fund		14120

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Due from State and Local Special Revenue Funds	14121-14139	
Due from Federal Special Revenue Funds	14140-14149	
Reserved for Local Use for Due from Federal Special Revenue Funds	14146-14149	
Due from Capital Projects Fund	14150-14159	14150
Reserved for Local Use for Due from Debt Service Funds	14161-14169	
Due from Enterprise Funds	14170-14179	14170
Reserved for Local Use for Due from Enterprise Funds	14171-14179	
Due from Internal Service Funds	14180-14189	
Reserved for Local Use for Due from Internal Service Funds	14181-14189	
Due from Trust and Agency Funds	14190-14199	14190
Due from Other Governmental Units	14500-14599	
<i>Amounts due to be received within one year, for example: grants, entitlements, charges for services provided to other governmental units by the county, etc.</i>		
Due from the U.S. Government	14510-14519	14510
<i>This account series includes receivables from any federal department, agency, board or other units of the federal government.</i>		
Reserved for Local Use for Due from U.S. Government	14515-14519	
Due from the State of Alabama	14520-14529	14520
<i>This account series includes receivables from any State department, agency, office, board commission, etc. Taxes collected by the State and then remitted to the county should be accounted for as Taxes Receivable, series 13400.</i>		
Reserved for Local Use for Due from State of Alabama	14525-14529	
Due from Other Counties	14540-14549	14540
Reserved for Local Use for Due from Other Counties	14541-14549	
Due from Municipalities	14550-14579	14550

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Due from Municipalities	14551-14579	
Reserved for Local Use for Due from Other Governmental Units	14580-14589	
Due from Miscellaneous Governmental Units	14590-14599	14590

To record short-term receivables from governmental units which are not properly included in the above categories; for example, a regional planning commission.

Reserved for Local Use for Due from Miscellaneous Governmental Units	14591-14599	
Reserved for Local Use for Receivables	14800-14899	
Miscellaneous Receivables and Receivables Valuation Accounts	14900-14999	
Reserved for Local Use for Miscellaneous Receivables	14950-14989	
Allowance for Uncollectible Accounts (credit balance)		14999

An account which reports the estimated amount of uncollectible receivables as of a certain date. The balance of this account is subtracted from the amount of all receivables to show the net estimated collectible amount receivable at a given date.

Inventories	15000-15999	
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The cost of supplies on hand for use in county operations. In the consumption method of accounting for inventories, purchases of supplies are debited to an appropriate inventory (asset) account when the goods are received and expenditures for supplies are recorded only when the supplies are issued to county departments for use. Also, see Account Number 34200.

The following question was answered in the Comprehensive Implementation Guide 2005:

7.35. Q—Are governments required to use the “consumption” method of accounting for inventories in the government-wide statement of net assets? (B23)

A—Yes. The consumption method of inventory accounting is consistent with the economic resources measurement focus and the accrual basis of accounting required in the government-wide statements. Thus, if the government uses the purchases method in its governmental funds and the consumption method produces different results, the difference should be included in the reconciliations of governmental funds to governmental activities.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Office Supplies and Minor Office Equipment	15100-15199	15100
<i>Includes the cost of stationery and printed forms, pens, pencils, staples, staplers, file folders, calendars, photocopying supplies, etc. Data processing supplies may be included in this account or in a separate account in the reserved series.</i>		
Reserved for Local Use for Office Supplies and Minor Office Equipment	15150-15199	
Fuels and Lubricants	15200-15299	15200
<i>Includes the cost of gasoline, kerosene, diesel fuel, motor oil, grease, transmission fluid, liquid propane gas, etc.</i>		
Reserved for Local Use for Fuels and Lubricants	15250-15299	
Road Construction and Maintenance Supplies	15300-15399	15300
<i>Includes the cost of concrete pipe, gravel, sand, crushed stone, tar, asphalt, etc.</i>		
Reserved for Local Use for Road Construction and Maintenance Supplies	15350-15399	
Small Tools and Minor Equipment	15400-15499	15400
<i>Includes the cost of hammers, wrenches, hand drills and saws, axes, etc.</i>		
Reserved for Local Use for Small Tools and Minor Equipment	15450-15499	
Tires and Tubes	15500-15599	15500
<i>Includes the cost of tires, tubes, weights, valves, stems, tire patches, etc.</i>		
Reserved for Local Use for Tires and Tubes	15550-15599	
Reserved for Local Use for Supplies	15600-15999	
Prepaid Items	16000-16499	
<i>The cost paid in advance of services to be received in the future, which will then become part of the county's normal operating costs. These costs may be charged to expenditures when paid; however, counties may want to consider reporting significant amounts of prepaid items as assets at fiscal year-end. (See account 34120)</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Postage	16100-16199	16100
<i>Includes postage available on postage meters as well as stamps on hand and any amounts paid in advance to the post office.</i>		
Prepaid Insurance	16200-16299	16200
<i>Includes the cost of unexpired insurance protection.</i>		
Reserved for Local Use for Prepaid Insurance	16250-16299	
Prepaid Rent	16300-16399	16300
<i>The cost of rent paid in advance.</i>		
Reserved for Local Use for Prepaid Items	16400-16480	
Deferred Charges (Current Portion)	16481-16499	16481
<i>Expenditures/expenses which are not chargeable to the fiscal year in which the disbursement is made but which are reported in the asset section of the balance sheet until charged to expenditure/expense. Deferred charges are different from prepaid items in that they extend over longer periods of time and are not regularly recurring costs of operations. The best example of a deferred charge is the issuance costs on bonds payable which are amortized over the life of the appropriate bonds for proprietary fund types or at the government-wide level only for governmental funds. This is the account range for the amounts due within one year. See Account Number range 18100-18199 for the amounts due after one year.</i>		
Deferred Bond Issuance Costs (Current Portion)		16482
Reserved for Local Use for Current Deferred Charges	16483-16499	
Unassigned	16500-16550	
Lease Payments Receivable	16551-16599	
NONCURRENT ASSETS AND DEFERRED CHARGES	17000-18999	
<i>Those assets and charges which will provide benefits to the county over a period of years (such as capital assets) or which are not available to finance current operations or to pay current liabilities (such as long-term receivables and deferred charges).</i>		
Capital Assets	17000-17999	
<i>The historical cost (if determinable) of all tangible, long-lived assets used in county operations and which meet the commission's criteria for capital assets. (For example, the commission may determine that all assets with an estimated useful life of two years or more and an acquisition cost of \$5,000 or more should be accounted for as capital assets.) Donated capital assets should be recorded at their fair market value at the date of donation.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Land	17100-17199	17100
<i>Includes the actual purchase price plus any real estate commissions, delinquent taxes and recording fees paid, plus any costs of preparing the land for its intended use, such as grading and demolishing unwanted buildings. Donated buildings should be appraised at the time of donation.</i>		
Reserved for Local Use for Land	17101-17130	
Land Improvements (Inexhaustible)		17135
<i>Improvements include excavation, grading, tree removal, and site improvements that do not require maintenance or replacement and do not deteriorate with use or passage of time.</i>		
Land Improvements (Exhaustible)		17140
<i>Improvements include permanent additions, which increase the value of the land, for example: sidewalks, fences, retaining walls, paved parking lots, etc. that will eventually deteriorate.</i>		
Buildings and Building Improvements	17200-17299	17200
<i>Includes the actual purchase price plus real estate commissions, delinquent taxes and recording fees paid, plus the costs of any renovations and additions made to the building to accommodate the county's operating requirements. Does not include the cost of routine maintenance and repairs such as painting, periodic re-roofing, normal plumbing repairs, etc. Donated buildings should be appraised at the time of donation.</i>		
Reserved for Local Use for Buildings and Improvements	17250-17299	
Infrastructure	17300-17399	
Infrastructure – Roads		17310
Infrastructure – Bridges		17320
Infrastructure – Other		17330
Reserved for Local Use – Infrastructure	17340-17390	
Equipment and Furniture	17400-17499	17400
<i>Items meeting the definition of capital assets other than land, buildings and improvements.</i>		
Construction Equipment	17410-17419	
<i>Includes the cost/donated fair value of equipment such as front loaders, road graders, dump trucks, asphalt spreaders, ditch witches, rollers, large flat-bed trucks, cranes, tractors, etc.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Construction Equipment	17411-17419	
Office Equipment and Furniture	17420-17429	17420
<i>Includes the cost/donated fair value of items such as desks, chairs, tables, filing and storage cabinets, book cases, typewriters, calculators, cash registers, lamps, check writing machines, copy machines, etc.</i>		
Reserved for Local Use for Office Equipment and Furniture	17421-17429	
Motor Vehicles	17430-17439	17430
<i>Includes the cost/donated fair value of cars, pick-up trucks, vans, buses, jeeps, ambulances, fire trucks, etc.</i>		
Reserved for Local Use for Motor Vehicles	17431-17439	
Computer Equipment	17440-17449	17440
<i>Includes the cost/donated fair value of computer hardware such as central processors, printers, display stations, memory storage, etc. Also includes software, which meets the commission's criteria for capital assets.</i>		
Reserved for Local Use for Computer Equipment	17441-17449	
Communications Equipment	17460-17469	17460
<i>Includes the cost/donated fair value of telephone systems, beepers, walkie-talkies, two-way radios, radio monitors, radio transmitter towers, etc.</i>		
Reserved for Local Use for Communications Equipment	17461-17469	
Reserved for Local Use for Equipment and Furniture	17480-17489	
Other Equipment and Furniture	17490-17499	17490
<i>Includes the cost/donated fair value of equipment and furniture, which are not properly included in the above categories.</i>		
Voting Machines		17491
Boats and Boating Equipment		17492
<i>Includes boat trailers, outboard motors, canoes, etc.</i>		
Reserved for Local Use for Other Equipment and Furniture	17496-17499	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Construction in Progress	17500-17599	17500

Includes the cost of construction projects which have been started but which are not completed at fiscal year-end. A separate account number should be assigned to each project.

Reserved for Local Use for Construction in Progress	17550-17599	
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Assets Under Capital Leases	17600-17699	17600
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To record the present value of the capital lease payments (not the simple sum of the capital lease payments) for capital assets acquired through lease-purchase agreements until the assets have been paid for. When the capital lease has been paid in full, the capital asset should be removed from this category and recorded in the appropriate capital asset account for other county-owned capital assets.

Buildings and Improvements Under Capital Lease		17620
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Equipment and Furniture Under Capital Lease	17630-17639	17630
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Construction Equipment Under Capital Lease		17631
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Office Equipment and Furniture Under Capital Lease		17632
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Motor Vehicles Under Capital Lease		17634
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Data Processing Equipment Under Capital Lease		17635
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Communications Equipment Under Capital Lease		17636
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Other Equipment Under Capital Lease	17670-17699	
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Reserved for Local Use for Capital Assets	17800-17899	
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Accumulated Depreciation	17900-17999	
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Accounts whose balances reflect the cumulative amount of depreciation expense on owned capital assets, which have been charged to expense in proprietary fund types or through GASB 34 conversion entries in the current and prior fiscal years. Reporting of accumulated depreciation on general fixed assets is now required by GASB Statement Number 34; however, even though accumulated depreciation is shown in the GASB 34 Capital Assets Group, depreciation expenses are not recorded at the fund level for governmental funds. The depreciation expense for governmental funds would be recorded through a GASB 34 conversion entry to report the accumulated depreciation and depreciation expense at the government-wide level.

Accumulated Depreciation – Land Improvements (Exhaustible)		17900
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Accumulated Depreciation – Buildings and Building Improvements		17905
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Accumulated Depreciation – Infrastructure		17910
Accumulated Depreciation - Equipment and Furniture		17915
Accumulated Depreciation – Vehicles and Construction Equipment		17920
Accumulated Depreciation – Assets Under Capital Lease		17925
Reserved for Local Use for Accumulated Depreciation	17930-17980	
Accumulated Depreciation – Miscellaneous Capital Assets		17985
Deferred Revenue Lease Interest	17990-17999	
Other Noncurrent Assets and Deferred Charges	18000-18999	
Deferred Charges (Noncurrent Portion)	18100-18199	18100

Expenditures/expenses which are not chargeable to the fiscal year in which the disbursement is made but which are reported in the asset section of the balance sheet until charged to expenditure/expense. Deferred charges are different from prepaid items in that they extend over longer periods of time and are not regularly recurring costs of operations. The best example of a deferred charge is the issuance costs on bonds payable which are amortized over the life of the appropriate bonds for proprietary fund types or at the government-wide level only for governmental funds. This is the account range for the amounts due after one year. See Account Number range 16481-16499 for the amounts due within one year.

Deferred Bond Issuance Costs (Noncurrent Portion)		18101
Reserved for Local Use for Noncurrent Deferred Charges	18150-18199	
Advances to Other Funds	18200-18299	18200

To record noncurrent portions (amounts due to be repaid more than one year from the present) of a long-term loan to another fund. Any amounts due to be repaid in less than one year should be recorded as Due From Other Funds, account number series 14100-14199.

Advances to General Funds	18201-18209	
Advances to the General Fund		18201
Advances to the Contingent Fund		18202
Reserved for Local Use for Advances to General Funds	18203-18209	
Advances to State and Local Special Revenue Funds	18210-18239	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Advances to the Gasoline Tax Fund		18211
Advances to the Public Buildings, Roads and Bridges Fund		18212
Advances to the Public Highway and Traffic Fund		18213
Advances to the RRR Gasoline Tax Fund		18217
Advances to the Secondary Road Fund		18218
Advances to the Reappraisal Fund		18220
Reserved for Local Use for Advances to State and Local Special Revenue Funds	18230-18239	
Advances to Federal Specific Revenue Funds	18240-18241	
Reserved for Local Use for Advances to Federal Special Revenue Funds	18245-18249	
Advances to Capital Projects Funds	18250-18259	18250
Reserved for Local Use for Advances to Capital Projects Funds	18251-18259	
Advances to Debt Service Funds	18260-18269	18260
Reserved for Local Use for Advances to Debt Service Funds	18261-18269	
Advances to Enterprise Funds	18270-18279	18270
Reserved for Local Use for Advances to Enterprise Funds	18271-18279	
Advances to Internal Service Funds	18280-18289	18280
Reserved for Local Use for Advances to Internal Service Funds	18281-18289	
Advances to Trust and Agency Funds	18290-18299	18290
Reserved for Local Use for Advances to Trust and Agency Funds	18291-18299	
Reserved for Local Use for Long-Term Intergovernmental Receivables	18300-18399	
Capital Assets Held for Investment	18400-18499	

Assets which meet the commission's criteria for capital assets but which are not being used in current county operations should be accounted for in this separate series of accounts.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Other Noncurrent Assets and Deferred Charges	18900-18999	

OTHER DEBITS	19000-19999	
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Other Debits are the accounts which are presented in the General Long-Term Debt Group to balance or offset the long-term liability accounts (which have credit balances). These accounts do not represent anything of value owned or held by the county and therefore, cannot properly be called assets. They are more closely related to net assets after GASB 34 conversion entries. See explanation at Account Number 33050 to decide if and how these accounts should be used.

Amounts Available in Debt Service Funds for Payment of General Long-Term Debt Principal	19100-19199	19100
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An account in the General Long-Term Debt Group which reflects the amount of assets available in the Debt Service Funds for the retirement of general long-term debt. A single account can be used or separate accounts for each long-term debt can be maintained.

Reserved for Local Use for Amounts Available in Debt Service Funds	19150-19199	
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Amounts to be Provided in Future Years for Payment of General Long-Term Debt Principal	19200-19299	19200
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An account in the General Long-Term Debt Group which reflects the difference between the amount available in the Debt Service Funds and the amount necessary to repay the general long-term debt. A single account can be used or separate accounts for each long-term debt can be maintained.

Amount to be Provided for Payment of Compensated Absences		19251
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Amount to be Provided for Landfill Closure and Post-Closure Care Costs		19252
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Reserved for Local Use for Amounts to be Provided in Future Years	19252-19299	
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<u>LIABILITIES AND DEFERRED REVENUES</u>	20000-29999	
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Liabilities are the claims of individuals and other organizations against the assets of the county; or in other words, liabilities are debts owed by the county. Deferred revenues are accounts with credit balances which reflect the amount of revenues collected in advance and which are not properly recognizable as revenue in the current fiscal year.

CURRENT LIABILITIES	21000-24999	
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Current Liabilities are debts which are expected to be paid from current assets or settled by the creation of other current liabilities within one year.

Payables Arising from Routine County Operations	21100-21799	
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Accounts Payable	21100-21199	21100
<i>Debts owed for purchases of goods and services on account, which are used in routine county operations. Accounts payable are debts which normally are due within 30-60 days from the date of purchase; debts due in more than one year should be recorded as long-term liabilities.</i>		
Reserved for Local Use for Accounts Payable	21150-21199	
<i>This number series is reserved for use by counties which desire to record some type of accounts payable, such as bills for telephone or utilities services, in separate liability accounts.</i>		
Supernumerary Salaries Payable	21200-21299	21200
<i>Amounts provided from ad valorem taxes at the beginning of the fiscal year for payment of supernumerary salaries (other than to the Sheriff) during the current fiscal year.</i>		
Supernumerary Tax Assessor's Salary Payable		21201
Supernumerary Tax Collector's Salary Payable		21202
Reserved for Local Use for Payables from Routine Operations	21203-21499	
Miscellaneous Payables from Routine Operations	21500-21599	21500
<i>Current payables from routine operations which are not properly included in any other category.</i>		
Short-Term Loans/Notes Payable	21510-21519	21510
<i>Loans or promissory notes which are due to be paid within one year.</i>		
Reserved for Local Use for Short-Term Loans/Notes Payable	21515-21519	
Contracts Payable	21520-21529	21520
<i>Amounts due to be paid in less than one year on contracts for goods or services received by the county.</i>		
Reappraisal Contracts Payable		21521
Reserved for Local Use for Contracts Payable	21525-21529	
Retainages Payable	21530-21539	21530
<i>Amounts due to contractors for work performed but which are being withheld from payment by the county pending completion, inspection and final acceptance of the project.</i>		
Reserved for Local Use for Retainages Payable	21535-21539	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Customers' Deposits Payable	21540-21549	21540
<i>A liability of Enterprise Funds which reflects amounts paid by customers as a requirement for receiving the Enterprise's services. When customers no longer desire to use the Enterprise's services, their deposits are returned to them if their accounts have been paid in full.</i>		
Reserved for Local Use for Miscellaneous Payables from Routine Operations	21550-21599	
Accrued Salaries and Wages Payable	21600-21699	21600
<i>The liability representing salaries and wages earned but not yet due to be paid. Whether or not this account is used during the fiscal year, counties should always record the amounts of compensation earned by officials and employees but as yet unpaid at fiscal year-end.</i>		
Reserved for Local Use for Accrued Salaries and Wages Payable	21650-21699	
Payroll Taxes and Withholdings Payable	21700-21799	21700
<i>To record the various liabilities incurred in relation to payment of compensation to officials and employees. Normally not accrued due to materiality.</i>		
Federal Income Tax Withholdings Payable		21701
Social Security Taxes Payable		21702
Insurance Premiums Payable		21703
Retirement Contributions Payable		21704
State Income Tax Withholding Payable		21705
Garnishments Payable		21706
Supernumerary Withholdings Payable		21707
Unemployment Insurance Withholding Payable		21708
Deferred Compensation Withholding Payable		21709
Employees' Savings Deductions Payable		21710
Peace Officers' Annuity and Benefit Fund Deductions Payable		21711
Judicial Retirement Payable		21712
Internal Revenue Service Levies Payable		21713

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
State Tax Levies Payable		21714
Workman's Compensation		21715
Reserved for Local Use for Payroll Taxes and Withholdings Payable	21716-21799	
Debt Service Payables	21800-21899	
<i>Accounts for recording amounts due to be paid within one year arising from long-term indebtedness.</i>		
Matured Long-Term Debt Principal Payable	21800-21829	21800
<i>The liability reflecting the amount of principal on indebtedness which is due but has not yet been paid.</i>		
Reserved for Local Use for Matured Long-Term Debt Principal Payable	21801-21829	
Matured/Accrued Interest Payable	21830-21859	21830
<i>The liability reflecting the amount of interest on indebtedness which is due but has not yet been paid.</i>		
Reserved for Local Use for Matured/Accrued Interest Payable	21831-21859	
Due to Fiscal Agents/Trustees	21860-21889	21860
<i>Amounts owed to financial institutions for their services provided in connection with the issuance, servicing or refunding of indebtedness.</i>		
Reserved for Local Use for Due to Fiscal Agents/Trustees	21861-21889	
Reserved for Local Use for Debt Service Payables	21890-21899	
Estimated Liability for Compensated Absences (October amount – fund level)		21901
<i>Per GASB Interpretation 6, the only amount that should be accrued at the fund level is the amount paid in the following October. This account would be used for this accrual.</i>		
Estimated Liability for Compensated Absences (Remaining balance due within one year)		21902
<i>Per GASB Interpretation 6, the only amount that should be accrued at the fund level is the amount paid in the following October. This account would be used in the GASB 34 conversion entries and the proprietary fund types to record the rest of the balance due within one year. If the total amounts due within one year is \$10,000 and you've already accrued \$500 in Account Number 21901 for the amount paid in October, the remaining \$9,500 would be recorded in this account. The balance of compensated absences would be due after one year and be recorded in Account Number 26801.</i>		
Estimated Liability for Landfill Closure and Post-Closure Care Costs		21903

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Estimated Liability for Claims Costs Payable		21904
Reserved for Local Use for Current Liabilities	21905-21999	
Due to Other Funds	22000-22999	
<i>Amounts owed to other county funds which are expected to be repaid within one year.</i>		
Due to General Funds	22001-22099	
Due to the General Fund		22001
Due to the Contingent Fund		22002
Reserved for Local Use for Due to General Funds	22050-22099	
Due to State and Local Special Revenue Funds	22100-22199	22100
Due to Gasoline Tax Fund		22111
Due to Public Buildings, Roads and Bridges Fund		22112
Due to Public Highway and Traffic Fund		22113
Due to RRR Gasoline Tax Fund		22117
Due to Secondary Road Fund		22118
Due to Reappraisal Fund		22120
Reserved for Local Use for Due to State and Local Special Revenue Funds	22121-22199	
Due to Federal Special Revenue Funds	22200-22299	22200
Reserved for Local Use for Due to Federal Special Revenue Funds	22250-22299	
Due to Capital Projects Funds	22300-22399	22300
Reserved for Local Use for Due to Capital Projects Funds	22350-22399	
Due to Debt Service Funds	22400-22499	22400
Reserved for Local Use for Due to Debt Service Funds	22450-22499	
Due to Enterprise Funds	22500-22599	22500

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Due to Enterprise Funds	22550-22599	
Due to Internal Service Funds	22600-22699	22600
Reserved for Local Use for Due to Internal Service Funds	22650-22699	
Due to Trust and Agency Funds	22700-22799	22700
Reserved for Local Use for Due to Trust and Agency Funds	22750-22799	
Reserved for Local Use for Due to Other Funds	22900-22999	
Due to Other Governmental Units	23000-23999	
<i>Amounts owed to other governmental units which are expected to be paid within one year.</i>		
Due to the U.S. Government	23100-23199	23100
<i>Amounts due to the federal government, including federal departments, agencies, boards, commissions, etc., which are expected to be paid within one year.</i>		
Reserved for Local Use for Due to U.S. Government	23150-23199	
Due to the State of Alabama	23200-23299	23200
<i>Amounts due to State departments, agencies, boards, commissions, etc., which are expected to be paid within one year.</i>		
Reserved for Local Use for Due to State of Alabama	23250-23299	
Due to Other Counties	23300-23399	23300
Reserved for Local Use for Due to Other Counties	23350-23399	
Due to Municipalities	23400-23499	23400
Reserved for Local Use for Due to Municipalities	23450-23499	
Due to County Agencies and Boards	23500-23599	23500
Due to County School Board		23501
Reserved for Local Use for Due to County Boards & Agencies	23502-23599	
Reserved for Local Use for Due to Other Governmental Units	23700-23899	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Due to Miscellaneous Other Governmental Units	23900-23999	
<i>To record short-term debts to governmental units which are not properly included in the above categories; for example, a regional planning commission.</i>		
Other Current Liabilities	24000-24999	
<i>Accounts to show current payables other than those which would be included in the above categories.</i>		
Due to Original Property Owners of Land Sold for Taxes	24000-24099	24000
<i>To reflect the liability to original property owners for amounts received in excess of the taxes due on land sold for property taxes. If these amounts are still outstanding after the statutorily prescribed period of time, they may be transferred to the General Fund.</i>		
Reserved for Local Use for Due to Original Property Owners of Land Sold for Taxes	24001-24099	
Due to Unidentified Individuals	24100-24199	24100
<i>To reflect the liability to return unclaimed assets which had been held by the courts or Probate Judge for at least five years to the rightful owners upon presentation of proper documentation. If these amounts are still outstanding after the statutorily prescribed period of time, they may be transferred to the General Fund.</i>		
Reserved for Local Use for Due to Unidentified Individuals	24101-24199	
Amounts Due to Inmates	24200-24299	24200
<i>To record the amount of wages earned by inmates in work release programs which they are entitled to keep. Also, to be used for recording any other amounts owed to prisoners.</i>		
Reserved for Local Use for Amounts Due to Inmates	24201-24299	
Unassigned		24300
Reserved for Local Use for Other Current Liabilities	24700-24999	
Deferred Revenues	25000-25999	25000
<i>Credit amounts which are not recognized as revenues of the period in which the assets are received but which will be recognized as revenues in the future fiscal years when all revenue recognition criteria have been met. Example: taxes collected in advance of their revenue recognition date.</i>		
Deferred Revenue – Lease Principal Payment		25001

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Deferred Revenues	25002-25999	

LONG-TERM LIABILITIES

26000-29999

Long-term liabilities are debts owed by the county which have due dates of more than one year in the future. GASB Statement Number 34 requires long-term liabilities to be reported in two separate components – the amounts due within one year and the amounts due after one year. Therefore, the following accounts have two distinct account numbers to record these two separate amounts that make up the total long-term liability.

Long-term Liabilities Payable to Others	26000-26999	
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Term Bonds/Warrants Payable (Portion due within one year)	26100-26199	26100
Term Bonds/Warrants Payable (Portion due after one year)		26101

To record the non-current portion of the principal of bonds/warrants in which the entire issue matures on a single date more than one year in the future.

Reserved for Local Use for Term Bonds/Warrants Payable	26102-26199	
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Serial Bonds/Warrants Payable (Portion due within one year)	26200-26299	26200
Serial Bonds/Warrants Payable (Portion due after one year)		26201

To record the non-current portion of the principal of bonds/warrants in which the principal is scheduled to be repaid in periodic installments over the life of the issue.

Reserved for Local Use for Serial Bonds/Warrants Payable	26202-26299	
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Revenue Bonds/Warrants Payable (Portion due within one year)	26300-26399	26300
Revenue Bonds/Warrants Payable (Portion due after one year)		26301

To record the noncurrent portion of the principal of bonds/warrants which are to be repaid exclusively from a specific revenue source.

Reserved for Local Use for Revenue Bonds/Warrants Payable	26302-26399	
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Capital Lease-Purchase Contracts Payable (Portion due within one year)	26400-26499	26400
Capital Lease-Purchase Contracts Payable (Portion due after one year)		26401

To record the noncurrent portion of the present value of future lease payments under capital leases.

Reserved for Local Use for Capital Lease-Purchase Contracts Payable	26402-26499	
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Long-Term Loans/Notes Payable (Portion due within one year)	26500-26599	26500
Long-Term Loans/Notes Payable (Portion due after one year)		26501
<i>To reflect the noncurrent portion of the principal of bank loans and promissory notes payable which mature in more than one year.</i>		
Reserved for Local Use for Long-Term Loans/Notes Payable	26502-26599	
Contracts Payable (Portion due within one year)	26600-26699	26600
Contracts Payable (Portion due after one year)		26601
<i>To reflect amounts due to be paid in more than one year on contracts for goods or services received by the county.</i>		
Reappraisal Contracts Payable (Portion due within one year)		26602
Reappraisal Contracts Payable (Portion due after one year)		26603
Reserved for Local Use for Contracts Payable	26650-26699	
Reserved for Local Use for Long-Term Liabilities Payable to Others	26804-26899	
Estimated Liability for Compensated Absences (Also, see Account Numbers 21901 & 21902 for the current portions)		26801
Estimated Liability for Landfill Closure and Post-Closure Costs (Also, see Account Number 21903 for the current portion)		26802
Estimated Liability for Claims Cost Payable (Also, see Account Number 21904 for the current portion)		26803
Valuation Accounts for Long-Term Liabilities Payable to Others	26900-26999	
Unamortized Premiums on Long-Term Liabilities (Portion due within one year)	26900-26949	26900
Unamortized Premiums on Long-Term Liabilities (Portion due after one year)		26901
<i>A premium on long-term liabilities is the excess of the selling price of a debt instrument over its face value, which results from the debt instrument's interest rate being higher than the market rate of interest on the date of sale. In <u>proprietary funds types</u>, this excess is accounted for as an addition to the face value of the long-term debt and is periodically amortized (reduced) to reduce the amount of interest expense recorded to the market rate (as of the date of sale). Premiums on <u>general long-term debt</u> are recognized as an Other Financing Source recorded in the appropriate governmental fund at the time of the issuance of the debt at the fund level. They are treated like proprietary fund types through GASB 34 conversion entries at the government-wide level.</i>		
Reserved for Local Use for Unamortized Premiums On Long-Term Liabilities	26902-26949	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Unamortized Discounts on Long-Term Liabilities (Portion due within one year)	26950-26999	26950
Unamortized Discounts on Long-Term Liabilities (Portion due after one year)		26951

A discount on long-term liabilities (record by a debit to this account) is the excess of the face value of long-term debt instruments issued over their selling price, which results from the debt instrument's interest rate being lower than the market rate of interest on the date of sale. In Proprietary fund types, this deficit of the selling price under the face value of the long-term debt instrument is accounted for as a reduction to the face value of the long-term debt and is periodically amortized to decrease the amount of interest expense recorded to the market rate (as of the date of sale). Discounts are recognized as an Other Financing Use recorded in the appropriate governmental fund at the time of issuance of the debt at the fund level. They are treated like proprietary fund types through GASB 34 conversion entries at the government- wide level.

Reserved for Local Use for Unamortized Discounts on Long-Term Liabilities	26952-26999	
Advances from Other Funds	27000-27999	27000

To record the noncurrent portion of amounts owed to other county funds which are expected to be repaid more than one year in the future.

Advances in General Funds	27001-27099	
Advances from the General Fund		27001
Advances from the Contingent Fund		27002
Reserved for Local Use for Advances from General Funds	27003-27099	
Advances from State and Local Special Revenue Funds	27100-27199	27100
Advances from Gasoline Tax Fund		27111
Advances from Public Buildings, Roads and Bridges Fund		27112
Advances from Public Highway and Traffic Fund		27113
Advances from RRR Gasoline Tax Fund		27117
Advances from Secondary Road Fund		27118
Reserved for Local Use for Advances from State and Local Special Revenue Funds	27121-27199	
Advances from Federal Special Revenue Funds	27200-27299	27200

Reserved for Local Use for Advances from Federal Special Revenue Funds	27201-27299	
Advances from Capital Projects Funds	27300-27399	27300
Reserved for Local Use for Advances from Capital Projects Funds	27301-27399	
Advances from Debt Service Funds	27400-27499	27400
Reserved for Local Use for Advances from Debt Service Funds	27401-27499	
Advances from Enterprise Funds	27500-27501	27500
Reserved for Local Use for Advances from Enterprise Funds	27501-27599	
Advances from Internal Service Funds	27600-27699	27600
Reserved for Local Use for Advances from Internal Service Funds	27601-27699	
Advances from Trust and Agency Funds	27700-27799	27700
Reserved for Local Use for Advances from Trust and Agency Funds	27701-27799	
Reserved for Local Use for Advances from Other Funds	27900-27999	
Reserved for Local Use for Long-Term Liabilities	29000-29999	
<u>FUND BALANCE/NET ASSETS</u>	30000-39999	

At the fund level, fund balance is the excess of a fund's total assets over total liabilities. If a fund's total assets are less than its total liabilities, the resulting negative fund balance is called a deficit. At the government-wide level, net assets is the excess of the total assets over total liabilities for governmental activities, business-type activities and fiduciary fund types.

INVESTMENT IN CAPITAL ASSETS 32000-32999

The investment in capital assets accounts are not fund balance accounts since the GASB 34 Capital Assets Group (CAG) is not a fund but simply self-balancing groups of accounts used to maintain accounting control over the county's capital assets and to record GASB 34 conversion entries related to them. This series of accounts is used to balance the capital asset within the CAG. This account series is divided to show the source of funds which were used to purchase capital assets. It may also be used for the GASB 34 conversion entries related to capital assets and will most likely become a component in determining net assets at the government-wide level. Because the long-term debt and associated GASB 34 conversion entries are recorded in the GASB 34 Long-Term Debt Group, this is not the same as the category of net assets referred to as Investment in Capital Assets, net of related debt. (See explanation at Account Number 33050)

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Investment in Capital Assets at Historical Cost/Donated Fair Value	32100-32199	32100
<i>An account series used in the Capital Assets Group to represent the county's equity in capital assets for which the historical cost is known. Also included in this account is the county's equity in donated assets for which the fair value at donation date has been determined.</i>		
Investment in CA at Historical Cost from Fund Revenues	32110-32119	32110
Reserved for Local Use for Investment in CA from General Fund	32115-32119	
Investment in CA at Historical Cost from General Obligation Bonds	32120-32129	32120
Reserved for Local Use for Investment in CA from General Obligation Bonds	32125-32129	
Investment in CA at Historical Cost from Federal Funds	32130-32139	32130
Reserved for Local Use for Investment in CA From Federal Funds	32135-32139	
Investment in CA at Historical Cost from State Revenues	32140-32159	32140
Reserved for Local Use for Investment in CA from State Revenues	32150-32159	
Investment in CA at Historical Cost from Local Special Revenues	32160-32169	32160
Reserved for Local Use for Investment in CA from Local Special Revenues	32165-32169	
Reserved for Local Use for Investment in CA at Historical Cost	32180-32189	
Investment in CA at Donated Fair Value	32190-32199	32190
Reserved for Local Use for Investment in CA at Donated Fair Value	32195-32199	
Investment in CA at Estimated Historical Cost/ Estimated Donated Fair Value	32200-32299	32200

An account series to be used in the GASB 34 Capital Assets Group to represent the county's investment in capital assets which were not recorded in the group at acquisition date and for which the records of their historical cost or fair value on the date of donation are no longer (or never were) available, making it necessary to estimate their historical cost or fair value on the date of donation. Thus, this account will be used for the county's older assets which are being recorded on the books for the first time and for which the original cost or fair value on the date of donation cannot reasonably be determined.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Investment in CA at Estimated Historical Cost	32210-32219	32210
Reserved for Local Use for Investment in CA at Estimated Cost	32215-32219	
Investment in CA at Estimated Fair Value at Date of Donation	32220-32229	32220
Reserved for Local Use for Investment in CA at Estimated Donated Fair Value	32225-32229	
Reserved for Local Use for Investment in CA at Estimated Historical Cost/Estimated Fair Value	32260-32299	
Reserved for Local Use for Investment in Capital Assets	32600-32999	
NET ASSETS	33000-33999	

The difference between a government's assets and its liabilities is its net assets. Net assets should be displayed in three components—invested in capital assets, net of related debt; restricted (distinguishing between major categories of restrictions); and unrestricted.

Invested in Capital Assets, Net of Related Debt

This component of net assets consists of capital assets, including restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets. If there are significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds should not be included in the calculation of invested in capital assets, net of related debt. Rather, that portion of the debt should be included in the same net assets component as the unspent proceeds—for example, restricted for capital projects.

Restricted Net Assets

Net assets should be reported as restricted when constraints placed on net asset use are either:

- a. Externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments
- b. Imposed by law through constitutional provisions or enabling legislation.

When permanent endowments or permanent fund principal amounts are included, “restricted net assets” should be displayed in two additional components—expendable and nonexpendable. Nonexpendable net assets are those that are required to be retained in perpetuity.

Because different measurement focuses and bases of accounting are used in the statement of net assets than in governmental fund statements, and because the definition of *reserved* includes more than resources that are *restricted* (as discussed in this paragraph), amounts reported as *reserved fund balances* in governmental funds will generally be different from amounts reported as *restricted net assets* in the statement of net assets.

<u>NUMBER</u>	<u>ACCOUNT</u>
<u>SERIES</u>	<u>NUMBER</u>

Unrestricted Net Assets

Unrestricted net assets consist of net assets that do not meet the definition of “restricted” or “invested in capital assets, net of related debt.”

This series of accounts will be used for the various components of net assets that will be recorded at the government-wide level for governmental activities and for proprietary and fiduciary fund types.

Investment in Capital Assets, net of related debt	33050
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This component of net assets consists of capital assets, including restricted capital assets, net of accumulated depreciation and reduced by the outstanding balances of any bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets. If there are significant unspent related debt proceeds at year-end, the portion of the debt attributable to the unspent proceeds should not be included in the calculation of invested in capital assets, net of related debt. Rather, that portion of the debt should be included in the same net assets component as the unspent proceeds—for example, restricted for capital projects.

This account may be used in place of the combination of Investment in Capital Assets (32000-32999) and the Other Debit accounts (19000-19999) as the offset accounts to capital assets in the GASB 34 Capital Assets Group and long-term debt in the GASB 34 Long-Term Debt Group. It may also be used to aid in the GASB 34 conversion entries related to capital assets and long-term debt.

Net Assets – Restricted for Debt Service	33100
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An account used to segregate a portion of Net Assets which is required to be accumulated for payment of debt principal and interest.

Net Assets – Restricted for Capital Projects	33110
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An account used to segregate a portion of Net Assets which is required to be spent for capital projects.

Net Assets – Restricted for Road and Bridge Projects	33115
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An account used to segregate a portion of Net Assets which is required to be spent for road and bridge projects.

Net Assets – Restricted for Other Purposes	33120
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An account used to segregate a portion of Net Assets which is required to be spent for other specific purposes.

Net Assets – Held in Trust for Other Purposes	33125
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An account used to segregate a portion of Net Assets which is required to be held in trust per laws or trust agreements.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Net Assets – Restricted for Endowments – Expendable		33130
<i>When permanent endowments or permanent fund principal amounts are included, “restricted net assets” should be displayed in two additional components—expendable and nonexpendable. Nonexpendable net assets are those that are required to be retained in perpetuity. This is the account for the expendable portion.</i>		
Net Assets – Restricted for Endowments – Nonexpendable		33135
<i>When permanent endowments or permanent fund principal amounts are included, “restricted net assets” should be displayed in two additional components—expendable and nonexpendable. Nonexpendable net assets are those that are required to be retained in perpetuity. This is the account for the nonexpendable portion.</i>		
Reserved for Local Use for Restricted Net Assets	33140-33199	
Unrestricted Net Assets		33200
<i>Unrestricted net assets consist of net assets that do not meet the definition of “restricted” or “invested in capital assets, net of related debt.” This account is used to account for the remaining portions of Net Assets that are not restricted</i>		
FUND BALANCE	34000-35999	
<i>Fund Balance is the excess or deficit of a governmental fund’s total assets over or under its total liabilities. Fund balance is generally divided into Reserved and Unreserved components.</i>		
Reserved Fund Balances	34000-34999	
<i>An account used to earmark a portion of the Fund Balance to indicate that it is not available to be appropriated for expenditure. This account should only be used in governmental fund types and Trust Funds.</i>		
<i>Because different measurement focuses and bases of accounting are used in the statement of net assets than in governmental fund statements, and because the definition of reserved includes more than resources that are restricted (as discussed in this paragraph), amounts reported as reserved fund balances in governmental funds will generally be different from amounts reported as restricted net assets in the statement of net assets.</i>		
Reserved for Encumbrances	34110-34119	34110
<i>An account used to show that the portion of Fund Balance equal to the amount of purchase orders outstanding is committed to expenditure upon completion of those purchase orders and therefore is not available for appropriation.</i>		
Reserved for Local Use for Reserved for Encumbrances	34115-34119	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Prepaid Items	34120-34129	
Reserved for Long-Term Receivables from Others	34130-34139	34130
<i>An account used to segregate a portion of Fund Balance equal to the amount of non-current receivables from individuals or other organizations to show that they do not represent available spendable resources.</i>		
Reserved for Local Use for Reserved for Long-Term Receivables from Others	34135-34139	
Reserved for Inventory	34200-34299	34200
<i>An account used to segregate a portion of Fund Balance to indicate that supplies on hand do not represent available spendable resources even though they are a part of current assets. "If the consumption method of accounting for supplies is used [supplies are charged to expenditure when issued], a reserve for supplies inventory need not be established unless minimum amounts of inventory are required to be maintained and thus are not available for expenditure. Under the purchase method [supplies are charged to expenditure when purchased], inventories on hand at year-end are fully reserved." (GASB Code 1600.127)</i>		
Reserved for Debt Service	34300-34399	34300
<i>An account used to segregate a portion of Fund Balance for Debt Service Fund resources <u>legally</u> restricted to the payment of general long-term debt principal and interest amounts maturing in future years. Amounts in Debt Service Funds in excess of legal requirements, if any, should be shown as Unreserved Fund Balance; these amounts may be shown as Designated for Debt Service within the Unreserved Fund Balance.</i>		
Reserved for Local Use for Reserved for Debt Service	34301-34399	
Reserved for Advances to Other Funds	34400-34499	34400
<i>An account used to segregate a portion of Fund Balance to indicate that noncurrent portions of interfund receivables do not represent available spendable resources because they are not current assets.</i>		
Reserved for Advances to General Funds	34401-34409	
Reserved for Advances to the General Fund		34401
Reserved for Local Use for Reserved for Advances to General Funds	34406-34409	
Reserved for Advances to State and Local Special Revenue Funds	34410-34439	34410
Reserved for Advances to Gasoline Tax Fund		34411
Reserved for Advances to Public Buildings, Roads and Bridges Fund		34412

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Advances to Public Highway and Traffic Fund		34413
Reserved for Advances to RRR Gasoline Tax Fund		34417
Reserved for Advances to Reappraisal Fund		34420
Reserved for Local Use for Advances to State and Local Special Revenue Funds	34430-34439	
Reserved for Advances to Federal Special Revenue Funds	34440-34449	34440
Reserved for Local Use for Reserved for Advances to Federal Special Revenue Funds	34446-34449	
Reserved for Advances to Capital Projects Fund	34450-34459	34450
Reserved for Local Use for Reserved for Advances to Capital Projects Funds	34451-34459	
Reserved for Advances to Debt Service Funds	34460-34469	34460
Reserved for Local Use for Reserved for Advances to Debt Service Funds	34461-34469	
Reserved for Advances to Enterprise Funds	34470-34479	34470
Reserved for Local Use for Reserved for Advances to Enterprise Funds	34471-34479	
Reserved for Advances to Internal Service Funds	34480-34489	34480
Reserved for Local Use for Reserved for Advances to Internal Service Funds	34481-34489	
Reserved for Advances to Trust and Agency Funds	34490-34499	34490
Reserved for Local Use for Reserve for Advances to Trust and Agency Funds	34491-34499	
Reserved for Trust Funds' Requirements	34500-34599	34500

A series of Fund Balance accounts used to show that the net assets of Trust Funds may only be spent to satisfy the fiduciary obligations associated with the fund. These probably won't be used anymore because of being replaced by Account Number 33125. They were left in case a county chose to use these to have more details for the net assets of trust funds. The county's system will need to know how to convert these to restricted net assets like Account Number 33125.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Reserved for Trust Funds' Requirements	34501-34599	
Reserved for Local Use for Reserved Fund Balance	34800-34999	
Budgetary Fund Balance		35000B

A budgetary account to be used to record the difference, if any, between budgeted revenues, expenditures and operating transfers when recording the budget at the beginning of the fiscal year. This account can have either a debit or credit balance depending on whether the budgeted revenues and operating transfers in exceed the budgeted expenditures and operating transfers out, which would result in a credit to Budgetary Fund Balance; or whether the budgeted revenues and operating transfers in are less than the budgeted expenditures and operating transfers out, which would result in a debit to Budgetary Fund Balance. At fiscal year end, the Budgetary Fund Balance account is closed out to the Unreserved Fund Balance Account.

Unreserved Fund Balance	35000-35999	35000
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Unreserved Fund Balance is that portion of the total Fund Balance which is available to be appropriated for expenditures and which has not been legally earmarked for a specific future use. Unreserved Fund Balance may be divided into Designated and Undesignated components.

Unreserved Fund Balance Designated for _____	35100-35899	35100
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This series of accounts is used to show the amount of Unreserved Fund Balance for which tentative plans have been made for future use of financial resources, such as for general contingencies or for replacement of equipment. Designations of Unreserved Fund Balance are used by the commission to disclose tentative future plans, which may be changed at any time. Designated Unreserved Fund Balance does not reflect any legal earmarking to be appropriated for expenditure. The purpose for which Unreserved Fund Balance has been designated should be clearly identified in the account title.

Reserved for Local Use for Unreserved Fund Balance Designated for _____	35101-35899	
Unreserved and Undesignated Fund Balance	35900-35999	35900

The amount of total Fund Balance which is neither reserved nor designated.

Reserved for Local Use for Unreserved and Undesignated Fund Balance	35950-35999	
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REVENUES

40000-49999

Revenues are any increase in a fund's net financial resources other than transfers of resources between funds, debt proceeds and interfund reimbursements. When assets are received which are due to be paid to another county fund, to an individual or to an organization, a liability should be recorded rather than a revenue (for example: a credit entry to Due to Gasoline Tax Fund or Due to State of Alabama).

The major classifications of governmental funds' revenues are fund, source and GASB 34 classification object code. Proprietary fund revenues should be classified in a manner similar to that used by private businesses of a similar nature.

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting, as are the proprietary fund and fiduciary fund financial statements. Revenues are recorded when earned, regardless of the timing of related cash flows. Nonexchange transactions, in which the Commission gives (or receives) value without directly receiving (or giving) equal value in exchange, include property taxes, grants, entitlements, and donations. On an accrual basis, revenue from grants, entitlements, and donations is recognized in the fiscal year in which all eligibility requirements have been satisfied. Revenue from property taxes is recognized in the fiscal year for which the taxes are levied.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period.

Proprietary funds distinguish operating revenues from nonoperating items. Operating revenues generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the Commission's enterprise funds are charges to customers for sales and services. All revenues not meeting this definition are reported as nonoperating revenues.

REVENUES CONTROL 40000

A general ledger account whose balances reflect the total amount of revenue recognized in any specific fund during the fiscal year-to-date.

ESTIMATED REVENUES CONTROL 40000B

A general ledger account reflecting the amount of revenue estimated (budgeted) to be recognized during the fiscal year.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
TAXES	41000-41999	
<i>Taxes are required charges levied by the county to finance services performed for the public at large.</i>		
Property Taxes	41100-41199	
<i>There are two basic categories of property taxes. General property taxes are ad valorem taxes levied by the commission on the assessed valuation of real and personal property. Property taxes on other than assessed valuation are direct taxes levied on a valuation other than assessed valuation (such as taxes on corporations based on the amount of corporate stock outstanding) or direct taxes calculated at a specific rate per unit (such as a certain dollar amount per acre).</i>		
General Property Taxes for General Purposes (General Fund) (Combined Real Property and Motor Vehicles)	41110-41112	41110-001
<i>To record ad valorem taxes (based on assessed valuation in accordance with constitutional limitations) on real and personal property, to be used for general purposes. NOTE: For most revenue sources, the fund in which that revenue should be recorded will be indicated within parentheses following the account title. This is the combined account for real property and motor vehicles for counties that choose not to separate.</i>		
General Property Taxes for General Purposes Real Property (General Fund)		41111-001
<i>An account to be used by counties which desire a separate accounting of general property taxes for general purposes which are collected on <u>real property</u>.</i>		
General Property Taxes for General Purposes Motor Vehicles (General Fund)		41112-001
<i>An account to be used by counties which desire a separate accounting of general property taxes for general purposes which are collected on <u>motor vehicles</u>.</i>		
General Property Taxes for Specific Purposes	41113-41139	
General Property Taxes for Appraisal Update (General Fund or Reappraisal Fund)		41115-002
<i>An account to be used by counties which desire to have a separate accounting of the amount of property tax revenue recognized which has been earmarked to pay the costs of appraisal update operations.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
General Property Taxes for Salaries of Supernumerary Tax Assessor and Collector (General Fund)		41116-002
<i>An account to be used by counties which desire to have a separate account of the amount of property tax revenue recognized which has been earmarked for payment of any Supernumerary Tax Assessors and Collectors.</i>		
General Property Taxes for Salaries of Tax Assessor and Collector (General Fund)		41117-002
<i>An account used to provide a separate accounting of the property tax revenue earmarked to pay the Tax Assessor's and Collector's salaries.</i>		
General Property Taxes for Salary of Revenue/License Commissioner (General Fund)		41118-002
<i>An account used to provide a separate accounting of property tax revenue earmarked to pay the Revenue/License Commissioner's salary.</i>		
General Property Taxes for Salaries of Supernumerary Revenue License Commissioners (General Fund)		41119-002
<i>An account used to provide a separate accounting of the property tax revenue earmarked to pay the Supernumerary Revenue/License Commissioner's salaries.</i>		
Special Sanitary Tax		41120-002
<i>The <u>Code of Alabama 1975</u>, Section 11-9-1, defines the special sanitary tax as "any special annual ad valorem tax upon all required to be used exclusively as a sanitary fund." Counties may issue warrants to pay the costs of purchasing, constructing or enlarging a sanitary sewer system or any components of such a system and pledge the proceeds of the special sanitary tax for the repayment of the warrants. (See also <u>Code of Alabama 1975</u>, Sections 11-9-2 and 11-9-3)</i>		
Special Property Tax for Library Purposes (General Fund or a Special Revenue Fund)		41121-002
<i>Counties are authorized by Amendment 269 of the State Constitution to levy up to a half mill tax on all taxable property within the county to support public libraries. The tax rate and length of time it is to be levied must first be approved by a majority of those voting on the issue.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Special Property Tax for Public Buildings, Roads and Bridges – Combined Real Property and Motor Vehicles (Public Buildings, Roads and Bridges Fund)		41122-002
<i>Amendment 208 to Article XI, Section 215 of the State Constitution authorized counties to levy a special property tax not to exceed two and one-half mills to be used to repay any county debt incurred to erect the necessary public buildings, roads and bridges. Any proceeds of this tax in excess of the amount needed to repay such indebtedness may be transferred to the General Fund and used for general purposes. This is the combined account for real property and motor vehicles for counties that choose not to separate.</i>		
Special Property Tax for Public Buildings, Roads and Bridges – Real Property only (Public Buildings, Roads and Bridges Fund)		41123-002
<i>An account to be used by counties which desire a separate accounting of public buildings, roads and bridges property taxes which are collected on <u>real property</u>.</i>		
Special Property Tax for Public Buildings, Roads and Bridges – Motor Vehicles only (Public Buildings, Roads and Bridges Fund)		41124-002
<i>An account to be used by counties which desire a separate accounting of public buildings, roads and bridges property taxes which are collected on <u>motor vehicles</u>.</i>		
Reserved for Local Use for General Property Taxes for Specific Purposes	41130-41139	
Property Taxes not Based on Assessed Valuation	41140-41159	
County Forest Protection Tax (Forestry Fund)		41140-020
<i>A property tax of \$.04 per acre on the forested acreage within the county which is remitted to the State Treasurer to be deposited in the State Forestry Fund. In exchange, the State Forestry Commission provides forest fire protection to the county. (See <u>Code of Alabama 1975</u>, Section 9-13-167)</i>		
Reserved for Local Use for Property Taxes not Based on Assessed Valuation	41150-41159	
Reserved for Local Use for Property Taxes	41180-41199	
County Sales and Use Taxes	41200-41299	
<i>Taxes levied by the county on the sale or consumption of specific goods and services.</i>		
Reserved for Local Use for County Sales and Use Taxes	41201-41209	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
County General Sales Tax (General Fund)	41210-41219	41210-005
<i>A tax on the sale of personal property within the county which is levied by the commission for general purposes.</i>		
County Special Sales Tax (General Fund or a Special Revenue Fund)		41215-006
<i>A tax on the sale of personal property within the county which is levied by the commission and restricted to use for a specific purpose.</i>		
County Gasoline Tax (General Fund or a Special Revenue Fund)		41220-009
<i>A tax levied by the commission on the use of gasoline within the county. The tax may be levied for general or specific purposes.</i>		
County Diesel Fuel Tax (General Fund or a Special Revenue Fund)		41225-010
<i>A tax levied by the commission on the use of diesel fuel within the county. The tax may be levied for general specific purposes.</i>		
County Beer Tax (Beer Tax Fund)		41230-014
<i>A tax levied by the commission in a wet county of up to \$.05 per twelve fluid ounces or fraction thereof of malt beverages sold in the unincorporated areas of the county. Of this tax, 60% must be used for public education allocated on the basis of average daily attendance and the remainder can be used for general purposes. (See <u>Code of Alabama 1975</u>, Section 28-2-23)</i>		
County Tobacco Tax (General Fund or a Special Revenue Fund)		41240-016
<i>A tax levied by the commission on the purchase of tobacco products by the consumer within the county. The tax may be levied for general or specific purposes.</i>		
County Lodging Tax (General Fund or Special Revenue Fund)		41250-018
<i>A tax levied by the county commission on the rental of rooms to transients within the county. The tax may be levied for general or specific purposes.</i>		
County Liquor Tax (General Fund or a Special Revenue Fund)		41260-020
<i>A tax levied by the commission on the consumption of liquor within the county. The tax may be levied for general or specific purposes.</i>		
County Table Wine Tax (General Fund or a Special Revenue Fund)		41270-020
<i>A tax levied by the commission on the consumption of wine within the county. The tax may be levied for general or specific purposes.</i>		
Other County Sales and Use Taxes	41290-41299	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Industrial Sales Tax (Special Revenue Fund)		41291-006
<i>A tax on the sale of personal property within the county which is levied to generate revenue to be used to promote industrial development within the county.</i>		
Reserved for Local Use for Other County Sales and Use Taxes	41295-41299	
Other Taxes	41300-41399	
<i>Compulsory charges levied by the commission to be used to provide services to the public and which are not properly included in any of the above amounts.</i>		
Reserved for Local Use for Other Taxes	41301-41309	
Mortgage and Deed Filing Taxes (General Fund)	41310-41312	41310-020
<i>Charges collected by the judge of probate for recording mortgages and deeds in the official county record books. (See accounts 41311 and 41312 for details.)</i>		
Mortgage Filing Taxes (General Fund)		41311-020
<i>An account to be used by counties who wish to account separately for taxes collected by the judge of probate for recording mortgages and security agreements. The probate judge is to collect a tax of \$.15 for each \$100.00 of indebtedness or fraction thereof prior to recording such debt instruments in the county's official records. Of this tax the probate judge retains 5% of the amount collected. Of the remainder, 2/3 shall be remitted to the State Treasurer and 1/3 to the county treasurer of the county in which the property securing the debt is situated. (See <u>Code of Alabama 1975</u>, Section 40-22-2)</i>		
Deed Filing Tax (General Fund)		41312-020
<i>An account to be used by counties who wish to account separately for taxes collected by the judge of probate for recording deeds and bills of sale, etc. The probate judge is to collect a tax of \$.50 for each \$500.00 of property value conveyed prior to recording a mortgage or bill of sale. Of this tax, 2 1/2% is retained by probate judges who are on fee basis; the remainder is distributed as follows: 2/3 to the State Treasurer and 1/3 to the county treasurer of the county in which the property is situated. (See <u>Code of Alabama 1975</u>, Section 40-22-1)</i>		
Mineral Documentary Tax (General Fund)		41330-020
<i>An account which reflects the amount of taxes charged on the recording of leases of gas, oil and mineral rights by the probate judge. Of the tax levied, 30% goes to the State's General Fund, 35% to the county's public schools, 30% to the county's General Fund and 5% to the probate judge if he is paid on a fee basis; otherwise 35% to the county's General Fund. (See <u>Code of Alabama 1975</u>, Sections 40-20-30 through 40-20-33)</i>		
Reserved for Local Use for Other Taxes	41390-41399	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Taxes	41700-41999	
LICENSES AND PERMITS	43000-43999	
<i>Revenues generated by the commission's legal authority to require certain activities to be licensed in order to operate lawfully.</i>		
Business Licenses and Permits	43100-43199	
<i>Revenue from businesses and occupations which must be licensed before doing business in the county.</i>		
Business Privilege License (General Fund)		43100-710
<i>Revenue from a license tax paid for the privilege of conducting business within the county (see <u>Code of Alabama 1975</u>, Section 40-12-3). Does not include fees of the Probate Judge, License/Revenue Commissioner or License Inspector.</i>		
County Liquor Licenses (General Fund)		43110-710
<i>Revenue from the county requirement that any business having a state liquor license in order to sell alcoholic beverages within the county. (See <u>Code of Alabama 1975</u>, Sections 28-3-136 and 28-3A-21)</i>		
Reserved for Local Use for Business Licenses and Permits	43160-43199	
Nonbusiness Licenses and Permits	43200-43999	
<i>Revenue from the sale of licenses and permits required by the county other than those having to do with the licensing of business and occupations.</i>		
Building Permits (General Fund)		43200-710
<i>Revenue from the sale of permits required in order to build specified structures within the county.</i>		
Pistol Permits (General Fund)		43300-720
<i>Revenue from the sale of permits by the Sheriff authorizing persons to possess handguns.</i>		
Marriage Licenses (General Fund)		43400-710
<i>Revenue from the fee charged by the judge of probate for the issuance of a license authorizing two people to marry.</i>		
Reserved for Local Use for Nonbusiness License and Permits	43800-43999	
Manufacturing Home Registration Fee (General Fund)		43800-710

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Manufacturing Home Moving Permit (General Fund)		43801-710
INTERGOVERNMENTAL REVENUES	44000-44999	
<p><i>Intergovernmental revenues are revenues from other governments in the form of grants, entitlements, shared revenues or payments in lieu of taxes. A <u>grant</u> is a contribution of assets to be spent for specific purposes. An <u>entitlement</u> is the amount of cash due to the county as determined by a legally prescribed allocation formula. A <u>shared revenue</u> is a revenue levied by another government and shared with the county on a predetermined basis.</i></p>		
State Shared Revenues	44100-44199	
<p><i>Revenues levied by State Law and shared with the counties on a predetermined basis.</i></p>		
Alcoholic Beverage Control Board Shared Revenues	44110-44129	
ABC Store Profits - General Fund)		44111-023
<p><i>Of the first \$2,000,000 in profits each year, 10% is divided equally among the counties for general uses. (See <u>Code of Alabama 1975</u>, Section 28-3-74)</i></p>		
ABC Store Licenses (General Fund)		44112-710
<p><i>License fees required of the retailers of alcoholic beverages within the county are required to be paid to the State ABC Board. The Board, in turn, pays the amount of those licenses back to the county. (See <u>Code of Alabama 1975</u>, Section 28-3-95)</i></p>		
State Sales Tax on Alcoholic Beverages (General Fund)		44113-023
<p><i>Of the additional state sales tax on alcoholic beverages levied by <u>Code of Alabama 1975</u>, Section 28-3-280, 25% will be distributed back to the county in which collected less an amount deducted by the State for administrative costs. (See <u>Code of Alabama 1975</u>, Section 28-3-281)</i></p>		
ABC Store Profits - Public Health Purposes (General Fund or a Special Revenue Fund)		44114-850
<p><i>Of the first \$2,000,000 in profits each year, 1% shall be divided equally among the counties to be used exclusively for public health purposes. (See <u>Code of Alabama 1975</u>, Section 28-3-74)</i></p>		
State Beer Tax (General Fund)		44120-023
<p><i>The <u>Code of Alabama 1975</u>, Section 28-3-184 levies a tax of \$.05 per twelve fluid ounces or fraction thereof on malt or brewed beverages (beer) sold within the state. Of this 5 cents, 1/2 cent shall be remitted by the State equally among the wet counties on a monthly basis. A tax of 3 1/2 cents per twelve fluid ounces or fraction thereof is levied by <u>Code of Alabama 1975</u>, Section 28-3-181 on sales of beer; one seventh of this tax is distributed by the State Treasurer to the counties, divided equally. No restrictions are placed on the use of these revenues.</i></p>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
State Table Wine Tax (General Fund)		44125-023
<p><i>The <u>Code of Alabama 1975</u>, Section 28-7-16 levies a tax of \$.45 per liter on table wines sold within the State. Of this tax \$.07 per liter sold within the unincorporated portions of wet counties will be remitted by the State to the county in which the wine was sold. There are no restrictions placed on the use of this revenue.</i></p>		
Reserved for Local Use for ABC Board Shared Revenues	44126-44129	
Financial Institutions Excise Tax (General Fund)		44130-023
<p><i>Financial institutions within the State are required to pay 6% of their net income to the State Department of Revenue as an excise tax. The State Treasurer is required by the <u>Code of Alabama 1975</u>, Section 40-16-6 to remit 1/4 of this excise tax received from financial institutions located within the county, less a deduction for administrative costs, to the county treasurer. This revenue can be used for general purposes.</i></p>		
State Sales Tax (General Fund)		44140-850
<p><i>Of the 4% State sales tax collected each year on retail sales, 9% of the first \$4,200,000 is distributed to the counties. Half of this distribution is divided equally among the counties and the other half is divided proportionately according to population. This revenue is to be spent either for full-time health services or for extension services. (See <u>Code of Alabama 1975</u>, Section 40-23-35)</i></p>		
State Business Privilege Tax (General Fund)		44150-023
<p><i>Authorized by <u>Code of Alabama 1975</u>, Section 40-14A-1 through 40-14A-43. Replaced the old Corporate Franchise Tax and Share Stock Ad Valorem Tax. Counties receive 2 distributions a year. The check received for July is for general purposes and the check received for January is to be distributed to all other agencies who were receiving part of the Share Stock Ad Valorem Tax in 1999. The amount to replace the Share Stock increases 3/4 percent each year but the percentages used to distribute to the other agencies stay the same. See Section 40-14A-26. The General Fund and the Public Buildings, Roads and Bridges Fund would only recognize revenue for the portions they get to keep.</i></p>		

NUMBER **ACCOUNT**
SERIES **NUMBER**

Oil and Gas Production Privilege Tax (General Fund) 44160-023

Of the oil and gas production privilege tax from offshore production, 10% of the net amount of taxes (after deduction for expenses of the State Department of Revenue) is remitted back to the county in which the oil or gas was produced to be spent for general purposes. Of the net tax from all production other than offshore, 37 1/2% goes into the State's General Fund; 12 1/2% is remitted to the county in which it was produced to be spent for general purposes; 42 1/2% of the first \$150,000.00 of the remaining 50% is distributed to the counties on a population basis; 10% of the taxes collected on wells located within city limits or police jurisdictions is distributed to the municipalities; 25% of the remaining 50% is distributed to the counties in which the oil or gas produced to be expended for general purposes (or to be distributed by the county to its board of education in certain counties); and 14% of all remaining net taxes are distributed to the counties on a population basis, with no restrictions as to how this amount may be spent. (See Code of Alabama 1975, Section 40-20-8)

Motor Vehicle Licenses and Registration Fees Base Amount (Public Highway and Traffic Fund) 44170-830

Sections 40-12-242 through 40-12-255 of the Code of Alabama 1975, levy license taxes and registration fees on cars and motorcycles, buses and taxis, hearses and ambulances, trucks and truck tractors, motor tractors, trailers and semi-trailers and house trailers. This amount of this tax on trucks and truck tractors is divided into a "base amount" and an "additional amount". The tax on all other vehicles is stated as a single amount, which is a "base amount". Of the base amounts collected by the probate judge, 2 1/2% is retained by the probate judge as his commission and 5% is remitted to the State Treasurer. Of the remaining base amount (92 1/2% of the base amounts collected): 72% is distributed to the State, 21% is remitted to the municipality in which the vehicle owner resides (if the owner resides in an unincorporated area, the county keeps the 21%) and 7% is sent to the State Treasurer who remits this amount back to the counties in the same proportion as the number of motor vehicles registered in the county compared to the number of motor vehicles registered in the entire state. Of this 7% the county must distribute 10% to the municipalities within the county according to population. The base amount revenue is restricted to use for the construction, improvement and maintenance of public highways or streets, including administrative costs. (See Code of Alabama 1975, Sections 40-12-269 and 40-12-270)

Motor Vehicle License Taxes and Registration Fees Additional Amount (Secondary Road Fund or RRR Gasoline Tax Fund) 44171-830

The Code of Alabama 1975, Section 40-12-248, levies a motor vehicle licenses tax and registration fee on trucks and truck tractors. This tax is divided into a "base amount" and an "additional amount." The additional amounts are collected by the probate judge, who remits them to the State Treasurer, who distributes them as follows: 64 3/4% is distributed to the State and 35 1/4% is distributed to the counties as follows: 42.16% of the 35 1/4% is divided equally among the counties and 57.84% of the 35 1/4% is divided among the counties according to population. Revenue from additional amounts must be used either for construction of high density unpaved roads and construction or reconstruction of bridges on such high density roads (Secondary Road Fund) or for reconstruction, resurfacing, restoration and rehabilitation of paved county roads and bridges or bridge replacement. (RRR Gasoline Tax Fund)

NUMBER **ACCOUNT**
SERIES **NUMBER**

Drivers' Licenses and Permits (Public Highway and Traffic Fund)

44180-830

A fee of \$20.00 is collected by the probate judge for each driver's license or non-driver identification card issued. The probate judge will remit \$18.50 of each such fee to the State Treasurer and \$1.50 of each fee into the Public Highway and Traffic Fund. In counties where the probate judge is compensated on the fee basis, only \$.90 is remitted to the Public Highway and Traffic Fund and the probate judge retains \$.60 as his fee. From the funds remitted to the State Treasurer, the portion representing \$5.00 shall be deposited into the Public Safety Law Enforcement Fund. Many counties have local legislation affecting this revenue source. (See Code of Alabama 1975, Section 32-6-5)

State Gasoline Tax (Gasoline Tax Fund)

44190-830

The Code of Alabama 1975, Section 40-17-31 levies a tax of 7 cents per gallon on the sale, consumption or storage of gasoline. The Revenue Department collects the tax and distributes 45% to the State; 25% is divided equally among the counties and 30% is divided among the counties on the basis of population. In any fiscal year in which a county's revenue from the 30% which is divided on the basis of population is less than \$555,000.00, that county will receive (out of the State's 45%) the amount necessary to be added to their revenue from the 30% portion to equal \$555,000.00. Of all amounts of 7 cent gasoline taxes received by the county, 10% must in turn be distributed to the municipalities within the county according to population. The remaining 90% is retained by the county and may be used for the following expenditures: (1) where commissioners are paid a salary, a proportion of their salaries equal to the proportion of time spent by the commissioner in supervising, inspecting or working on county roads to their total time spent on duties of their office, (2) payment of up to 75% of the county clerk's salary, (3) transportation planning and (4) construction, reconstruction, maintenance, widening, alteration and improvement of public roads and bridges. (See Code of Alabama 1975, Sections 40-17-72 through 40-17-78)

State Additional Excise Tax on Gasoline and Lubricating Oil
(RRR Gasoline Tax Fund)

44191-830

The Code of Alabama 1975, Section 40-17-220 levies a 4 cents per gallon excise tax on sales of gasoline, motor fuel and lubricating oil. Of the revenue collected, 45% is retained by the State and the remainder distributed as follows: (1) 25% of the net tax proceeds is divided equally among the counties and (2) 30% of the net proceeds is distributed to counties on the basis of population. Of the total amount allocated to each county, 10% must be distributed to the cities within the county on the basis of population (subject to local legislation). The use of this revenue is restricted to expenditures "for the resurfacing, restoration and rehabilitation of the paved county roads and bridges or bridge replacement on the county road system. Such funds shall not be used for new construction unless 90% of the county's paved road system has achieved a grade of 85% based on the State of Alabama highway department's annual maintenance report.... These funds shall not be used for the purchase of new equipment...and shall be kept and disbursed by the county from a special fund only for the...purposes provided." (Code of Alabama 1975, Section 40-17-224)

<u>NUMBER</u>	<u>ACCOUNT</u>
<u>SERIES</u>	<u>NUMBER</u>

Petroleum Products Permits and Inspection Fees (Secondary Road Fund or RRR Gasoline Tax Fund)	44192-830
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*The **Code of Alabama 1975**, Section 8-17-87 imposes an inspection fee on the first person selling, storing or using any petroleum product in this state; and Section 8-17-85 requires the purchase of a permit to sell or store petroleum products within the State. These permit and inspection fees are collected by the State Department of Agriculture and Industries and the first \$175,000.00 is distributed to the State's Agricultural Fund; of the remainder, 13.87% is divided equally among the counties. Counties must use this revenue only for construction of certain high density unpaved roads and for construction or reconstruction of bridges on such roads (Secondary Road Fund) or for reconstruction, resurfacing, restoration and rehabilitation of the paved county roads and bridges or bridge replacement on the county road system (RRR Gasoline Tax Fund). (See **Code of Alabama 1975**, Section 8-17-91)*

(Act 2004-546) State Additional Excise Tax on Gasoline and Lubricating Oil (RRR Gasoline Tax Fund or Secondary Road Fund)	44193-830
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*Act Number 2004-546, Acts of Alabama, amended the **Code of Alabama 1975**, Sections 8-17-87, 8-17-91, 40-17-220 and 40-17-222 to provide for an additional excise tax on gasoline and lubricating oil. Counties must use this revenue only for construction of certain high density unpaved roads and for construction or reconstruction of bridges on such roads (Secondary Road Fund) or for reconstruction, resurfacing, restoration and rehabilitation of the paved county roads and bridges or bridge replacement on the county road system (RRR Gasoline Tax Fund).*

Severed Material Tax (Severed Material Severance Tax Fund)	44194-8**
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*** The County would select the revenue object code that would coincide with the function for which the funds were to be spent. If the funds were to be spent on repair of roads, the object code would be 830. See the **Code of Alabama 1975**, Sections 40-13-50 through 40-13-61 and the description provided at Fund 119 for how the funds may be spent.*

5 Cent Excise Gas Tax (RRR Gasoline Tax Fund)	44196-830
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*The **Code of Alabama 1975**, Section 40-17-74.1 provides for a 5 cent supplemental gasoline excise tax. These funds should be deposited into the county RRR Gasoline Tax Fund and be used for resurfacing, restoration and rehabilitation of existing paved roads and bridges. However, funds can also be used to match federal aid and new construction. If these funds are spent for federal match or new construction, these expenditures should be fully documented as to the purpose and specific project and the amounts thus expended can't exceed the total deposits of 5 cent gasoline tax.*

Oil and Gas Tax Payment (Capital Improvement Fund)	44197-8**
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**** The County would select the revenue object code that would coincide with the function for which the funds were to be spent. Therefore, if the funds were to be spent to construct a jail, the object code would be 820 for the public safety function.*

Reserved for Local Use for State Shared Revenues	44198-44199
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
State Cost Sharing	44200-44299	
<i>State Cost Sharing is revenue received from the State of Alabama to assist the county with the financing of specific offices or agencies or for specific county functions. State Cost Sharing revenues should be recorded in the fund in which the expenditures of the particular office, agency or function being reimbursed are usually recorded.</i>		
Reserved for Local Use for State Cost Sharing	44201-44209	
State Cost Sharing for Emergency Management Agency/Civil Defense		44210-820
State Cost Sharing for Food Stamp Program		44215-860
State Cost Sharing for Highways and Roads	44220-44229	44220-*30
<i>* If the cost sharing is restricted to capital outlay type expenditures, the 1st digit of the object code would be 9. Otherwise, it would be 8.</i>		
State Cost Sharing for County Engineer's Salary		44221-830
State Cost Sharing for Highway/Road Projects		44222-*30
<i>* If the cost sharing is restricted to capital outlay type expenditures, the 1st digit of the object code would be 9. Otherwise, it would be 8.</i>		
Reserved for Local Use for State Cost Sharing for Highways/Roads	44226-44229	
State Cost Sharing for Elections		44230-810
State Cost Sharing for Pensions and Security		44235-810
State Cost Sharing for the Board of Voter Registrars		44240-810
State Cost Sharing for the Cooperative Extension Service		44250-880
State Cost Sharing for the Board of Tax Equalization		44260-810
State Cost Sharing for the Juvenile Probation Office	44270-44270	44270-820
State Cost Sharing for the Probation Officer's Salary		44271-820
State Cost Sharing for the Juvenile Detention Facilities		44272-820
State Cost Sharing for Courts	44280-44289	44280-810

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Worthless Check Collection Service Charge - Voluntary Surrender (65%) (Worthless Check Fee Fund)		44281-810
<i>This account is used to record the 65% of the \$75 service charge which may be requisitioned by the District Attorney to pay the expenses of operating the Worthless Check Unit.</i>		
Worthless Check Collection Service Charge - Voluntary Surrender (35%) (Worthless Check Fee Fund)		44282-810
<i>This account is used to record the 35% of the \$75 service charge which is used by the county for its cost of administering the worthless check collection program.</i>		
Worthless Check Collection Service Charge Prosecuted Cases (General Fund)		44283-710
<i>This account is to record the service charge assessed against accused persons who did not voluntarily surrender upon notice of a worthless check complaint against them and who were prosecuted in court. The amount of the service charge is computed as 85% times the amount of court costs assessed. This revenue must be recorded in the General Fund and used for law enforcement purposes.</i>		
State Cost Sharing for Sheriff's Department	44290-44299	44290-820
State Cost Sharing for Feeding of State Prisoners		44291-820
State Cost Sharing for Relocation of Prisoners		44292-820
State Grants	44300-44399	
<i>State grants are assets (usually cash) given to the county by a State agency, department, board, commission, etc. to be spent for a specific purpose. In cases where federal funds to be spent for a specific purpose are merely passed through a State Agency, the funds should be accounted for as a federal grant. Grants should generally be accounted for in a separate Special Revenue Fund.</i>		
Health Grants	44310-44319 (850 obj)	
Summer Nutrition Program		44311-860
Reserved for Local Use for Health Grants	44316-44319	
Reserved for Local Use for State Grants	44360-44399	
Regional Agencies and Commissions Cost Sharing and Grants	44400-44499	
Reserved for Local Use for Regional Agencies and Commissions Cost Sharing and Grants	44430-44499	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Federal Shared Revenues	44500-44599	
<i>Federal shared revenues are revenues levied by federal law and shared with the counties on some predetermined basis.</i>		
National Forestry Receipts (Gasoline Tax Fund)		44530-830
<i>The federal government distributes to the states a portion of the revenues received from operation of national forests. The State Forestry Commission will distribute these revenues to the counties in the same proportion as the area of national forests therein. The counties receiving such revenue must remit half to the county board of education and spend the other half on public county roads. (See <u>Code of Alabama 1975</u>, Section 9-13-2)</i>		
Reserved for Local Use for Federal Shared Revenues	44570-44599	
Federal Cost Sharing	44600-44699	
<i>Revenue received from the federal government to assist the county with the financing of specific county offices or functions. Federal cost sharing should be recorded in the fund in which the expenditures of the particular office or function being reimbursed are usually recorded.</i>		
Reserved for Local Use for Federal Cost Sharing	44660-44699	
Federal Grants	44700-44799	
<i>Federal grants are assets (usually cash) given to the county by a federal agency, department, board, commission, etc. to be spent for a specific purpose. The contribution may come directly from the federal government or may be passed through State agency. Grants should generally be accounted for in a separate Special Revenue Fund.</i>		
Disaster Assistance Grants	44710-44719	44710-820 (obj 920 if capital)
Reserved for Local Use for Disaster Assistance Grants	44711-44719	
Law Enforcement Grants	44720-44729	44720-820 (obj 920 if capital)
Reserved for Local Use for Law Enforcement Grants	44721-44729	
Job Training Grants	44730-44739	44730-880 (obj 980 if capital)
Reserved for Local Use for Job Training Grants	44731-44739	
Assistance to the Aging Grants	44740-44749	44740-860 (obj 960 if capital)

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Assistance to the Aging Grants	44741-44749	
Soil and Water Conservation Grants	44750-44759	44750-*10

** The County would select the revenue object code that would coincide with the purpose for which the funds were to be spent. The first digit would be 9 for Capital Grants and Contributions if the grant was capital related or 8 for Operating Grants and Contributions.*

Reserved for Local Use for Soil and Water Conservation Grants	44751-44759	
Community Development Block Grants	44760-44769	44760-***

**** The County would select the revenue object code that would coincide with the function for which the funds were to be spent. The first digit would be 9 for Capital Grants and Contributions if the grant was capital related or 8 for Operating Grants and Contributions. Therefore, if the funds were to be spent to construct a jail, the object code would be 920 for the public safety function.*

Reserved for Local Use for Community Development Block Grants	44761-44769	
Dept. of Energy Grants		44770-860
Federal Payments in Lieu of Taxes	44800-44899	

Payments in lieu of taxes are payments made from general revenues by one government to another to make up for taxes which would have been received by the recipient government if the property owned by the paying government had been privately owned instead of tax exempt.

Tennessee Valley Authority (TVA) Payments in Lieu of Taxes (General Fund)		44850-023
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The State receives payments in lieu of taxes from TVA and then remits a portion of this revenue to counties which are served by TVA and 5% of the revenue to the dry counties which are not served by TVA, which counties must then remit part of this revenue to the municipalities within the county in the same proportions as the ABC payments received by the county and its municipalities in fiscal year 1979. There is no restriction on how these funds may be used. (See Code of Alabama 1975, Sections 40-28-1 through 40-28-4)

Reserved for Local Use for Federal Payments in Lieu of Taxes	44880-44899	
Revenues from Local Government Units	44900-44999	
Revenues from Municipalities	44910-44919	44910-***

**** The County would select the revenue object code that would coincide with the type of revenue received from the municipality and the function for which the funds were to be spent. If it was a charge for service that was generated by the jail, the revenue object code would be 720.*

Reserved for Local Use for Revenues from Municipalities	44911-44919	
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Revenues from Other Counties	44920-44929	44920-***

**** The County would select the revenue object code that would coincide with the type of revenue received from the other county and the function for which the funds were to be spent. If it was a charge for service that was generated by the jail, the revenue object code would be 720.*

Reserved for Local Use for Revenues from Other Counties	44921-44929	
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Reserved for Local Use for Revenues from Local Governments	44980-44999	
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CHARGES FOR SERVICES	45000-45999	
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Revenues from charges for services are generated by fees charged to the specific individuals who benefit from a service provided by the government.

Court Fees	45100-45199	45100-710
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*Court fees include all fees charged to persons who make use of the courts' powers and procedures. (See **Code of Alabama 1975**, Sections 12-19-20, 12-19-70 through 12-19-75 and 12-19-170 through 12-19-179)*

Court Fees of the Circuit Court	45110-45119	45110-710
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Docket Fees (General Fund)		45111-710
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A portion of the fee required to be paid by plaintiffs at the time a complaint is filed with the court is to be distributed by the court to the county's General Fund.

Defendant Service Fees (General Fund)		45112-710
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A portion of the fee required to be paid in all civil cases where each defendant in excess of one must be served notice, whether in person or by mail or by publication, is to be distributed by the courts to the county's General Fund.

Witness Subpoena Fees (General Fund)		45113-710
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The fee required to be paid in all civil cases for serving of witness subpoenas is to be distributed to the county's General Fund.

Attachment/Garnishment/Execution Fees (General Fund)		45114-710
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A portion of the fee charged in all civil cases for the initiation of post-judgment proceedings to attach property, garnish wages or execute judgment will be distributed to the county's General Fund.

Court Fees of the District Court	45120-45129	45120-710
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Docket Fees (General Fund) (See account 45111 for explanation)		45121-710
Defendant Service Fees (General Fund) (See account 45112 for explanation)		45122-710
Witness Subpoena Fee (General Fund) (See account 45113 for explanation)		45123-710
Attachment/Garnishment/Execution Fees (General Fund) (See account 45114 for explanation)		45124-710
Juvenile Court Fees	45130-45139	45130-710
Docket Fees (General Fund) (See account 45111 for explanation)		45131-710
Other Court Fees	45150-45159	

To record fees charged for use of the court's powers and procedures which are not properly included in any other account.

Law Library Fees (Law Library Fund)		45151-710
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*In addition to docket fees collected on all cases, an additional \$2.00 library fee shall be collected and distributed to the county's Law Library Fund which shall be used for the establishment, maintenance and support of the county's law library. (See **Code of Alabama 1975**, Sections 11-25-1 through 11-25-9. Local legislation may apply)*

Other Officials' Fees for Services Provided to the Courts	45170-45179	
Sheriff's Fees (See <u>Code of Alabama 1975</u> , Sections 12-19-92 and 12-19-94 through 12-19-97)		45171-720
Coroner's Fees (See <u>Code of Alabama 1975</u> , Sections 12-29-93 and 12-19-94 through 12-19-97)		45172-720
Reserved for Local Use for Court Fees	45190-45199	
Fees and Commissions of Public Officials	45200-45299	

This series of accounts is to be used to record the revenue from fees and commissions of county officials for services provided when acting in their official capacities (except for court fees which should be recorded in account series 45100-45199).

Judge of Probate Fees and Commissions (General Fund)	45210-45219	45210-710
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*Revenue from fees for services of the probate judge as specified in the **Code of Alabama 1975**, Section 12-19-90. Probate judges who are on the fee basis will retain this revenue; otherwise, it is to be deposited to the General Fund.*

Reserved for Local Use for Judge of Probate Fees and Commissions	45211-45219	
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Tax Assessor Fees and Commissions (General Fund)		45220-710
<i>See <u>Code of Alabama 1975</u>, Sections 40-4-2 through 40-4-5 for a description of the method for computing the assessor's commissions. In counties where the assessor is on the fee basis, he retains the commissions distributed to him by the tax collector. In counties where the assessor is on a salary, the assessor's fees and commissions are paid into the General Fund.</i>		
Tax Collector Fees and Commissions (General Fund)		45230-710
<i>(See <u>Code of Alabama 1975</u>, Sections 40-5-4 through 40-5-6 for a description of the computation of the collector's commissions.) If the collector is on the salary basis, all his fees and commissions are deposited to the General Fund; otherwise, they are retained by the tax collector.</i>		
Revenue Commissioner Fees and Commissions (General Fund)		45235-710
License Inspector Citation Fees and Penalties (General Fund)		45240-710
<i>In cases where the license inspector issues a citation for failure to obtain the necessary business or motor vehicle licenses, a citation fee must be paid by the person so cited prior to his obtaining the necessary license. Whether a citation has been issued or not, a penalty must be collected prior to issuing a license after the delinquent date. A portion of these fees and penalties is paid into the county's General Fund. (See <u>Code of Alabama 1975</u>, Section 40-12-10)</i>		
License Commissioner Fees (General Fund)		45250-710
District Attorney/Solicitor's Fees (Judges' and District Attorney's Fund)		45260-720
Other Charges for Services of Public Officials	45280-45289	
Spouse Abuse Program Revenue (Judges' and District Attorney's Fund)		45280-720
<i>Of the \$15.00 fee collected for issuing a marriage license, the probate judge is to distribute \$5.00 for the district attorney's use in paying the costs of the Spouse Abuse Program.</i>		
Work Release Program Revenue (Work Release Fund)		45285-720
<i>Of the wages earned by county prison inmates participating in work release programs, 25% of the gross pay is recorded in this account to be used to pay the costs of the inmates' confinement. The remainder of the net wages is to be held by the county and paid out at the inmates' request for his personal needs or for his dependents' support. (See <u>Code of Alabama 1975</u>, Sections 14-8-30 through 14-8-37. Local legislation may affect these percentages.)</i>		
Motor Vehicle Late Registration Fee (Motor Vehicle Special Training & General Fund)		45286-710

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Motor Vehicle Suspended Registration Reinstatement Fee (Motor Vehicle Registration and Titling Technology Fund & General Fund) see <u>Code of Alabama 1975</u> , Section 32-7A-9(f))		45287-710
Issuance Fee \$5.00 Manufacturing Homes (Manufactured Home Trust & General Fund)		45290-710
Citation Fee (General Fund)		45291-710
Reserved for Local Use for Fees and Commissions of Officials	45292-45299	
Enterprise Funds' Operating Revenues	45400-45499	
<i>This series of accounts is used to record the revenues from Enterprise Funds' fees charged to the general public for the services provided by the enterprise.</i>		
Solid Waste Disposal Fees	45410-45419	45410-740
Solid Waste Collection Fees (Solid Waste Disposal or Collection Fund)		45411-740
<i>Fees charged for picking up household garbage, lawn clippings, junked appliances and other solid waste.</i>		
Landfill Dumping Fees (Solid Waste Disposal or Landfill Fund)		45412-740
<i>Per ton or per load charges for dumping waste in the county landfill.</i>		
Reserved for Local Use for Solid Waste Disposal Fees	45416-45419	
Water System Fees (Water and Sewer or Water System Fund)	45420-45429	45420-740
Water Sales Revenue		45421-740
<i>Charges for sales of water per one thousand gallons and any minimum or base charge.</i>		
Water System Cut-On Fees		45422-740
<i>Charges for establishing new service at a location already connected to the system. This account does <u>not</u> include customer deposits which are payable to the consumer at termination of service if all charges have been paid. (See account 21540)</i>		
Water System Late Fees		45423-740
<i>Amounts charged to customers for paying their bills after the delinquent payment date.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Water System Installation (Tapping) Fees		45424-740
<i>Amount charged to customers for the initial connection to the water system and installation of a water meter.</i>		
Water System Bad Check Charges		45425-740
<i>Fees charged to customers for making payments to the county water system with worthless checks.</i>		
Reserved for Local Use for Water System Fees	45428-45429	
Airport Fees (Airport Fund)	45430-45439	45430-710
Reserved for Local Use for Airport Fees	45435-45439	
Sewer System Fees (Water & Sewer or Sewer System Fund)	45440-45449	45440-740
Sewer Service Charges		45441-740
<i>Charges for the discharge of water and waste into the sanitary sewer system. Charges are usually fixed per thousand gallons of water discharged and may include a minimum or base charge.</i>		
Sewer System Cut-On Fee		45442-740
<i>Charges for establishing new service at a location already connected to the system. This account does <u>not</u> include customer deposits which are payable to the customer upon termination of service if all charges have been paid. (See account 21540)</i>		
Sewer System Late Fees		45443-740
<i>Amounts charged to customers for paying their bills after the delinquent date.</i>		
Sewer System Connection (Tapping Fees)		45444-740
<i>Amounts charged to customers for the initial connection to the sewer system.</i>		
Sewer System Bad Check Charges		45445-740
<i>Fees charged to customers for making payments to the county sewer system with worthless checks.</i>		
Reserved for Local Use for Sewer System Charges	45448-45449	
Reserved for Local Use for Enterprise Funds' Operating Revenues	45480-45499	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Internal Service Funds' Operating Revenues (Various Internal Service Funds)	45500-45599	
<i>To account for charges to county offices and departments for goods or services supplied by other county operations.</i>		
Billings to County Departments for Supplies/Parts	45510-45519	45510-7**
<i>** The county would select the last two digits of the revenue object code that would coincide with the function for the department billed.</i>		
Reserved for Local Use for Billings to Departments for Supplies	45511-45519	
Billings to County Departments for Labor	45520-45519	45520-7**
<i>** The county would select the last two digits of the revenue object code that would coincide with the function for the department billed.</i>		
Reserved for Local Use for Billings to Departments for Labor	45521-45529	
Billings to County Departments for Computer Services	45530-45539	45530-7**
<i>** The county would select the last two digits of the revenue object code that would coincide with the function for the department billed.</i>		
Reserved for Local Use for Billings to Departments for Computer Services	45531-45539	
Reserved for Local Use for Internal Service Funds' Operating Revenues	45570-45599	
Non-Enterprise Public Service Fees	45600-45699	
<i>Fees charged for services provided to the <u>general public</u> on a user donation basis where the providing of such services is <u>not</u> accounted for in an Enterprise Fund.</i>		
Transportation System User Fees (General Fund or a Special Revenue Fund)	45610-45619	45610-760
Reserved for Local Use for Transportation System User Fees	45615-45619	
Parks and Recreation Fees (General Fund or a Special Revenue Fund)	45620-45629	45620-770
Reserved for Local Use for Parks and Recreation Fees	45625-45629	
Other Non-Enterprise Public Services Fees	45680-45689	
Photocopying Charges (General Fund)		45681-710

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Commissions on Pay Telephones (General Fund or Local Fund)		45682-7**
<i>** If the pay telephones are located in the jail for inmates, the last 2 digits of the object code would be 20 for public safety. If they are in the courthouse, the last 2 digits of the object code would be 10 for general government.</i>		
Reserved for Local Use for Non-Enterprise Public Service Fees	45690-45699	
Charges for Services Provided to Other than the General Public	45800-45899	
Computer Services Revenue (General Fund or an Internal Service Fund)	45810-45819	45810-710
<i>To record revenue earned for providing computer services to other organizations.</i>		
Reserved for Local Use for Computer Services Revenue	45811-45819	
Charges for Housing of Non-County Prisoners	45820-45829	45820-720
Reserved for Local Use for Housing of Non-County Prisoners	45821-45899	
Reserved for Local Use for Charges for Services Provided to Other than the General Public	45880-45899	
Reserved for Local Use for Charges for Services	45900-45999	
FINE AND FORFEITS	46000-46999	
<i>Fines include revenue from fines and penalties imposed on those convicted of violating laws and administrative rules and regulations. Forfeits are revenues from the confiscation of deposits held as performance guarantees. (Use Object Code for "CHARGES FOR SERVICES" along with applicable Program / Function that generated the fine. For Example a fine generated from highways and roads would use an object code of 730, "7" for Charges for Services and "30" for Highways and Roads.)</i>		
Reserved for Local Use for Fines and Forfeits	46700-46999	
MISCELLANEOUS REVENUES	47000-47999	
<i>This account number series is used for sources of revenues which are not properly included in any of the previous categories. (NOTE: Any miscellaneous revenue code that is not included in a category listed below will NORMALLY be classified as using an Object Code of 000)</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Interest Earned	47100-47199	47100-025

These accounts should reflect the amount of interest earned on invested idle cash for the fiscal year-to-date, regardless of whether or not it has been received. (All Unrestricted Investment Earnings use object code "025")

Investment Income		47110-025
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Reserved for Local Use for Interest Earned	47150-47199	
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Rental Revenue	47200-47299	47200-000
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These accounts are used to record the amount of rental income earned on idle county assets which have been rented out.

Rentals of Buildings and Land		47210-000
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Rentals of Office Equipment (including copiers)		47220-000
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Rentals of Data Processing Equipment		47230-000
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Rentals of Motor Vehicles		47240-000
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Rentals of Construction Equipment		47250-000
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Reserved for Local Use for Rental Income	47251-47299	
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Sales	47300-47399	
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This series of accounts should be used to record the revenue received from sales of various types of consumable supplies. The proceeds from sale of general Capital Assets should be accounted for as an Other Financing Source (see accounts 61200-61299). For a description of the accounting for disposal of proprietary funds' capital assets, see object of expenditure account number 498.

(The sale of all items is considered a "Charge for Service" or "7". The remainder of the object code is dependent upon which fund the original expenditure was made. For example, the sale of pipe purchased by the Gasoline Tax Fund would have an object code of 730 (7 for Charges for Services and 30 for Highways and Roads), whereas the sale of maps from the General Fund would have an object code of 710 (7 for Charges for Services and 10 for General Government))

Vending Machine Sales	47320-47329	47320-710
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Reserved for Local Use for Vending Machine Sales	47321-47329	
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Sale of Maps and Publications	47330-47339	47330-710
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Reserved for Local Use for Sale of Maps and Publications	47331-47339	
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Sale of Gasoline and Other Fuels	47340-47349	47340-7**

*** - The object code on sales depends on how the fuel was originally purchased. If the sale of fuel comes from selling fuel that was originally expensed in the General Fund, then the object code would be 710, if the fuel came from the Gasoline Tax fund the object code would be 730, etc*

Reserved for Local Use for Sale of Gas and Other Fuels	47341-47349	
Sale of Road Construction Materials and Supplies	47350-47359	47350-730
Sale of Concrete Pipe		47351-730
Sale of Gravel		47352-730
Sale of Asphalt		47353-730
Reserved for Local Use for Sale of Confiscated Property	47365-47369	
Reserved for Local Use for Sales	47380-47389	
Miscellaneous Sales	47390-47399	47390-710

This account series is for recording revenue from sales of consumable supplies which are not properly included in the previous accounts.

Reserved for Local Use for Miscellaneous Sales	47395-47399	
Work on Private Property	47400-47499	

To account for revenue received from property owners for work performed on private property. (All work on private property is considered Charges for Service (7). The remainder of the object code is dependent upon which fund the original expenditure was made. For Example, if the scope of the work and workers are normally paid by the Gasoline Tax Fund, then an object code of 730 should be used (7 for Charges for Services and 30 for Highways and Roads), whereas when the work and workers are normally paid from the General Fund an object code of 710 should be used (7 for Charges for Services and 10 for General Government.)

Reserved for Local Use for Work on Private Property	47450-47499	
Donations	47700-47799	

To record the amount of cash or the fair market value of other assets donated to the county. (All Donations use an object code of 000)

Reserved for Local Use for Donations		47799-000
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	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Payments from Employees	47800-47899	
<i>To account for amounts paid to the county by its employees where these amounts are not due to other organizations or individuals.</i>		
Employees' Insurance Premiums	47810-47819	47810-000
<i>These accounts are to be used only for premiums paid by employees to a county's insurance fund where the county is <u>self-insured</u>. (All Employee Insurance Premiums use an object code of 000)</i>		
Reserved for Local Use for Employees' Insurance Premiums	47811-47819	
Contributions to Long-Term Supernumerary Funding	47820-47829	
Sheriff's Supernumerary Contributions-Current Year		47820-000
<i>This account records the amount of deductions from the sheriff's salary during the current fiscal year where the sheriff has elected to have such deductions made to help finance future supernumerary payments. (See <u>Code of Alabama 1975</u>, Sections 36-22-40 through 45)</i>		
Sheriff's Supernumerary Contributions-Prior Years	MEMO	
<i>This is a memorandum account only for the purposes of maintaining a record of each sheriff's total contributions toward his supernumerary status.</i>		
Other Miscellaneous Revenues	47900-47999	
<i>This series of accounts is for recording revenues which are not properly included in any other category of revenues.</i>		
Gain on Extinguishment of Debt		47900-030
Gain on Disposal of Capital Assets (For Proprietary Fund Types or GASB 34 Conversion Entries)		47901-027
<i>This account is to record the amount by which the disposal proceeds (sales price or insurance recovery) exceed the net book value of the capital asset being disposed of on the date of disposal. (See object of expenditure account number 498) For disposal of Capital Assets, see account 61210.</i>		
Beer Tax Administrative Costs Recovered (whichever fund pays these administrative costs)		47902-000
<i>This account is to record the revenue from charging the cities within the county a fee when the county collects the municipal beer tax for the cities and then remits the taxes collected to the cities.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Gasoline Tax Administrative Costs Recovered (whichever fund pays these administrative costs)		47903-000
<i>This account records the revenue earned by charging the cities within the county a fee when the county collects the municipal gasoline tax for the cities and then remits the taxes to the cities.</i>		
Cigarette Tax Administrative Costs Recovered (whichever fund pays these administrative costs)		47904-000
<i>Same description as 47903 except for cigarette tax instead of gasoline tax.</i>		
Recoveries on Insurance Claims (whichever fund pays the insurance premium)		47905-000
<i>This account records amounts received from the county's insurers for recoveries on claims filed. Do not include recoveries for loss of Governmental Activities Capital Assets, which would be recorded in accounts 61220-61229. Do not include recoveries for loss of proprietary funds' fixed assets which should be accounted for as explained for object of expenditure number 498.</i>		
Unclaimed Restitution to Worthless Check Victims		47906-000
<i>If a worthless check victim for whom restitution has been collected cannot be located after a reasonable period of time and by the diligent effort of the District Attorney's Worthless Check Unit, the Worthless Check Unit is to deposit the amount of the restitution to the Worthless Check Fund to be spent for law enforcement. (See <u>Code of Alabama 1975</u>, Section 12-17-224)</i>		
Reserved for Local Use for Other Miscellaneous Revenues	47907-47999	
Reserved for Local Use for Revenues		49000-49999
EXPENDITURES	50000-59999	
<u>EXPENDITURES CLASSIFIED BY FUNCTION AND ORGANIZATION (50000-58999)</u>		
EXPENDITURES CONTROL		50000
<i>A general ledger account reflecting the total fund expenditures recognized during the fiscal year-to-date.</i>		
ESTIMATED EXPENDITURES CONTROL		50000B
<i>A general ledger account recording the total budgeted expenditures of a fund for the current fiscal year.</i>		

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
FUNCTION: GENERAL GOVERNMENT	51000-51999	
<i>Included in this function are all expenditures for the legislative, judicial and administrative functions of the county. Also included are expenditures which are not properly included in any other functional category.</i>		
County Commission Expenditures	51100-51199	51100
Courthouse Annex(es)	51101-51109	51101
Reserved for Local Use for Courthouse Annex(es)	51102-51109	
Courthouse	51110-51119	51110
Reserved for Local Use for Courthouse	51111-51119	
Reserved for Local Use for County Commission Expenditures	51150-51199	
Court Expenditures	51200-51299	
Circuit Court	51200-51209	51200
Circuit Court – Jury Commission		51201
Circuit Court – Civil Division		51202
Circuit Court – Criminal Division		51203
Reserved for Local Use for Circuit Court	51207-51209	
Judges	51210-51219	51210
Circuit Court Judges		51211
District Court Judges		51212
Reserved for Local Use for Judges	51217-51219	
Circuit Clerk	51220-51229	51220
Reserved for Local Use for Circuit Clerk	51225-51229	
District Clerk	51230-51239	51230
Reserved for Local Use for District Clerk	51235-51239	
Other Court Expenditures	51240-51249	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Register		51240
Domestic Relations Court		51245
Reserved for Local Use for Other Court Expenditures	51247-51249	
Courtrooms	51250-51259	
<i>This account is to be used by counties who wish to allocate utilities, janitorial services, etc. to the courts.</i>		
Reserved for Local Use for Courtrooms	51255-51259	
District Attorney/Solicitor	51260-51269	51260
Investigation and Recovery		51261
Worthless Check Unit (District Attorney's 65%)		51262
Pretrial Services		51266
Reserved for Local Use for District Attorney	51267-51269	
Law Library	51270-51279	51270
Reserved for Local Use for Law Library	51275-51279	
Court Reporters	51280-51289	51280
Reserved for Local Use for Court Reporters	51285-51289	
Other Court Offices and Functions	51290-51299	51290
Reserved for Local Use for Other Court Offices and Functions	51295-51299	
Probate Judge's Office	51300-51399	51300
Reserved for Local Use for Probate Judge's Office	51350-51399	
Tax Assessor's Office	51400-51499	51400
Reserved for Local Use for Tax Assessor's Office	51450-51499	
Tax Collector's Office	51500-51599	51500
Reserved for Local Use for Tax Collector's Office	51550-51599	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Revenue/License Commissioner's Office	51600-51699	51600
Reserved for Local Use for Revenue/License Commissioner	51650-51699	
County Treasurer's Office	51700-51799	51700
Reserved for Local Use for County Treasurer's Office	51750-51799	
Reappraisal Maintenance	51800-51899	51800
Appraisal Office		51810
Mapping Office		51820
Reserved for Local Use for Reappraisal Maintenance	51870-51899	
Other General Government Offices and Programs	51900-51999	51900
Reserved for Local Use for Other General Government Offices	51901-51909	
Elections	51910-51919	51910
Reserved for Local Use for Elections	51911-51919	
Board of Voter Registrars		51920
Reserved for Local Use for Other General Government Offices	51921-51929	
Board of Equalization		51930
Transportation System		51935
Veteran's Service Office		51940
Soil Conservation Office		51945
Reserved for Local Use for Soil and Water Conservation Projects	51946-52949	
Forestry Commission		51950
Industrial Development Board		51955
Industrial Parks		51956
Architectural Review Board		51958
Personnel Department/Merit System Board/Civil Service Office		51960

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Personnel	51961-51964	
Data Processing Department		51965
Internal Auditing		51968
Examiners of Public Accounts		51969
Farmers Home Administration		51970
Planning Commission		51972
County Attorney		51975
License Inspector		51980
Worthless Check Fee Fund Administration (County's 35%)		51985
Miscellaneous General Government Functions		51990

This account number should be used with object of expenditure number 415, Trust Fund Disbursements, for payments of amounts which have been claimed by the persons to whom they were due before reversion (such as unclaimed witness fees or amounts in excess of taxes due on land sold for delinquent taxes).

County Airport		51991
Farm/Agriculture Center		51992
Maintenance and Operation of County Buildings and Grounds	51995-51999	51995

This account should be used if routine operating and maintenance costs (utilities, janitorial services, repairs, ground upkeep, etc.) are not going to be allocated among the various offices located in the county's buildings.

Reserved for Local Use for Maintenance and Operation of County Buildings and Grounds	51996-51999	
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FUNCTION: PUBLIC SAFETY 52000-52999

This series of accounts is to be used to record all expenditures for the protection of persons and property, including the corrections function.

Sheriff's Department	52100-52199	52100
Reserved for Local Use for Sheriff's Department	52150-52199	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Jail	52200-52299	52200
Jail Annex		52210
Reserved for Local Use for Jail	52250-52299	
Emergency Management Agency		52300
Coroner's Office		52400
Probation Office		52500
Youth Services Department	52600-52699	52600
Youth Detention Center		52610
Group Home for Minors		52620
Reserved for Local Use for Youth Services	52670-52699	
Fire Protection	52700-52799	
Building Inspector		52710
Reserved for Local Use for Fire Protection	52760-52799	
Other Public Safety Offices and Programs	52800-52999	
State Troopers - Drivers' License Division		52800
Rescue Squad/Ambulance/Emergency Medical Technicians		52900
Inmates Work Release Program		52910
Alabama National Guard		52920
Courthouse Security		52950
Reserved for Local Use for Other Public Safety Officers	52960-52999	
FUNCTION: HIGHWAYS AND ROADS	53000-53999	

This series of accounts is to be used for all expenditures for roadways and walkways (except that roads and sidewalks in parks should be charged to the Culture and Recreation Function).

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
County-Wide Roads and Bridges	53100-53199	53100
<i>This series of accounts is to be used by the counties whose road system is not divided into districts.</i>		
Reserved for Local Use for County-Wide Roads & Bridges	53150-53199	
Reserved for Local Use for Individual Districts	53200-53599	
County Engineer's Office	53600-53699	53600
Reserved for Local Use for County Engineer's Office	53650-53699	
County Shop	53700-53799	53700
Reserved for Local Use for County Shop	53750-53799	
Bridge Department	53800-53899	53800
Reserved for Local Use for Bridge Department	53850-53850	53800
New Construction Expenditures (5 Cent Gas Tax)		53900
Match on Federal Aid Projects (5 Cent Gas Tax)		53901
Reserved for Local Use for Highways and Roads	53902-53999	
FUNCTION: SANITATION	54000-54999	

This series of accounts should be used to record all expenditures for the removal and disposal of sewage and other forms of waste.

Solid Waste Department	54100-54199	54100
Reserved for Local Use for Solid Waste Department	54150-54199	
Water and Sewer Department	54200-54299	54200

This account series is to be used only where the water and sewer operations are combined under the authority of a single manager or authority.

Reserved for Local Use for Water and Sewer Department	54250-54299	
Landfill	54300-54399	54300

This series of accounts is to be used by counties which account for their landfill operation separately from the garbage collection operation.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Landfill	54350-54399	
Water Department/Water Authority	54400-54499	54400
<i>This series of accounts is to be used by counties with water and sewer systems which account for the water system separately from the sewer system.</i>		
Reserved for Local Use for Water Department/Water Authority	54450-54499	
Sewer Department	54500-54599	54500
<i>This series of accounts is to be used by counties with water and sewer systems which account for the sewer system separately from the water system.</i>		
Reserved for Local Use for Sewer Department	54550-54599	
Reserved for Local Use for Sanitation Offices & Programs	54800-54999	
FUNCTION: HEALTH	55000-55999	
<i>This series of accounts should be used to record all expenditures for the conservation and improvement of public health.</i>		
County Public Health Department	55100-55199	55100
Reserved for Local Use for County Public Health	55150-55199	
Mental Health/Mental Retardation Programs	55200-55299	55200
Reserved for Local Use for Mental Health/Mental Retardation	55250-55299	
County Hospital	55300-55399	55300
Reserved for Local Use for County Hospital	55350-55399	
Animal Control Program/Animal Shelter	55400-55499	55400
Reserved for Local Use for Animal Control/Animal Shelter	55450-55499	
Alcoholism/Drug Treatment Programs	55500-55599	55500
Reserved for Local Use for Alcoholism/Drug Treatment	55550-55599	
Contagious Disease Control Programs	55600-55699	55600
Reserved for Local Use for Contagious Disease Control	55650-55699	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Public Health	55800-55999	
FUNCTION: WELFARE	56000-56999	
<i>This series of accounts is to be used to record all expenditures to provide public assistance and institutional care for persons who are economically unable to provide essential needs for themselves.</i>		
Services for the Insane and Juveniles	56100-56199	56100
<i>Does not include corrections services to juveniles (See account series 52600-52699).</i>		
Services for the Insane		56110
Services for the Juveniles		56120
Reserved for Local Use for Services for the Insane & Juveniles	56170-56199	
Services for the Elderly		56200
Transportation Services for the Elderly		56210
Reserved for Local Use for Transportation Services for the Elderly	56211-56219	
Nutrition Services for the Elderly		56220
Home-Delivered Meals for the Elderly		56221
Reserved for Local Use for the Nutrition Services for the Elderly	56225-56229	
Retired Senior Volunteer Programs (RSVP)		56230
Reserved for Local Use for Services for the Elderly	56270-56299	
Services for the Indigent		56300
Medical Care for Indigent		56301
Reserved for Local Use for Indigent's Medical Care	56302-56309	
Reserved for Local Use for Services for the Indigent	56340-56349	
Food Stamp Program		56400
Reserved for Local Use for Food Stamp Program	56430-56449	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Child Development Programs		56500
Reserved for Local Use for Child Development Programs	56530-56549	
Pensions and Security Office		56600
Reserved for Local Use for Pensions & Security Office	56630-56649	
Department of Human Resources		56650
Housing Programs		56700
Weatherization Programs		56701
Reserved for Local Use for Weatherization Programs	56702-56709	
Housing Authority		56710
Reserved for Local Use for Housing Authority	56711-56719	
Reserved for Local Use for Housing Programs	56760-56799	
Summer Food Programs		56800
Reserved for Local Use for Summer Food Programs	56830-56849	
Reserved for Local Use for Welfare	56900-56999	
FUNCTION: CULTURE AND RECREATION	57000-57999	
<i>This account series is to be used to record all expenditures for all cultural and recreational facilities and activities maintained for the benefit of county residents and visitors.</i>		
Libraries		57100
Reserved for Local Use for Libraries	57130-57149	
Parks and Recreation Department		57200
Reserved for Local Use for Parks and Recreation	57201-57249	
County-Affiliated Golf Course		57300
Reserved for Local Use for County-Affiliated Golf Courses	57330-57349	
County-Affiliated Coliseum/Sports Facility		57430

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Museums		57500
Reserved for Local Use for Museums	57530-57549	
County Historical Society		57600
Reserved for Local Use for Historical Society	57630-57649	
Fine Arts Association/Society		57700
Reserved for Local Use for Fine Arts Association/Society	57730-57749	
Fairs and Livestock Exhibitions		57800
Reserved for Local Use for Fairs and Livestock Exhibitions	57830-57849	
Reserved for Local Use for Culture and Recreation	57900-57999	
FUNCTION: EDUCATION	58000-58999	
County Board of Education		58100
Reserved for Local Use for County Board of Education	58130-58149	
Extension Service		58200
Reserved for Local Use for Extension Service	58230-58249	
Reserved for Local Use for Education	58800-58999	
<u>EXPENDITURES CLASSIFIED BY CHARACTER ONLY</u>	59000-59999	
CHARACTER: DEBT SERVICE		59100

Debt Service expenditures are comprised of repayments of general long-term debt principal, payments of interest on long-term debt and payments of fiscal fees and other charges related to the servicing of long-term debt obligations. This series of account numbers should only be used with object of expenditure numbers 600-699, Debt Service.

CHARACTER: INTERGOVERNMENTAL 59200

Intergovernmental expenditures consist of transfers of county assets to other governmental units where there is no legal liability to transfer assets. Therefore, intergovernmental expenditures do not include payments to county agencies and departments (for example, an appropriation to the county board of health) or payments of legally imposed liabilities to transfer funds to other governmental units (for example, a transfer of municipal cigarette taxes collected by the county to the municipality which levied the tax). This account number should only be used with the object of expenditure number 700, Intergovernmental Expenditures.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
<u>OTHER FINANCING SOURCES AND USES</u>	60000-69999	
<i>Other Financing Sources and Uses include inflows and outflows of fund resources which increase or decrease fund equity but which are not properly classified as revenues or expenditures.</i>		
OTHER FINANCING SOURCES (credit balances)	61000-61999	
<i>Other Financing Sources are inflows of fund resources which increase fund equity but which are not properly classified as revenues.</i>		
Operating Transfers In	61100-61199	61100
<i>This account series is used for any transfers in from another fund which is not an interfund reimbursement, a loan or a quasi-external transaction, that is, any routine transfer from another fund which is not expected to be repaid. For each Operating Transfer In there must be a corresponding Operating Transfer Out in another fund.</i>		
Estimated Operating Transfers In		61100B
<i>A general ledger account reflecting the amount of Operating Transfers In budgeted for a specific fund for the current fiscal year.</i>		
Reserved for Local Use for Operating Transfers In	61101-61109	
Operating Transfers In from General Funds	61110-61119	61110
Reserved for Local Use for Operating Transfers In from General Funds	61111-61119	
Operating Transfers In from State and Local Special Revenue Funds	61120-61139	
Operating Transfers In from Gasoline Tax Fund		61121
Operating Transfers In from Public Buildings, Roads and Bridges Fund		61122
Operating Transfers In from Public Highways and Traffic Fund		61123
Operating Transfers In from RRR Gasoline Tax Fund		61124
Operating Transfers In from Secondary Road Fund		61125
Operating Transfers In from Reappraisal Fund		61126
Operating Transfers In from Work Release Fund		61127
Operating Transfers In from Cigarette Tax Fund		61128
Operating Transfers In from Services to the Indigent Fund		61129

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Operating Transfers In from State and Local Special Revenue Funds	61135-61139	
Reserved for Local Use for Operating Transfers In from Federal Special Revenue Funds	61140-61149	
Operating Transfers In from Capital Projects Funds		61150
Reserved for Local Use for Operating Transfers In from Capital Projects Funds	61160-61169	
Reserved for Local Use for Operating Transfers In from Debt Service Funds	61161-61169	
Operating Transfers In from Enterprise Funds		61170
Reserved for Local Use for Operating Transfers In from Enterprise Funds	61171-61179	
Operating Transfers In from Internal Service Funds		61180
Reserved for Local Use for Operating Transfers In from Internal Service Funds	61181-61189	
Operating Transfers In from Trust Funds		61190
Reserved for Local Use for Operating Transfers In from Trust Funds	61191-61199	
Proceeds of Capital Assets Dispositions		61200
<i>Any assets received at the time Capital Assets are sold or disposed of involuntarily (by theft, fire, natural disaster, etc.) should be accounted for as an Other Financing Source.</i>		
Estimated Proceeds of Capital Asset Dispositions		61200B
<i>A budgetary account showing the amount of Capital Asset disposal proceeds budgeted for the fiscal year.</i>		
Sales of Capital Assets		61210
Sales of Land		61211
Sales of Buildings and Other Land Improvements		61212
Sales of Equipment and Furniture		61213

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Sales of Capital Assets	61216-61219	
Compensation for Loss of Capital Assets		61220
Compensation for Loss of Land		61221
Compensation for Loss of Buildings and Other Land Improvements		61222
Compensation for Loss of Equipment and Furniture		61223
Reserved for Local Use for Compensation for Loss of Capital Assets	61226-61229	
Issuance of General Long-Term Debt		61300

The proceeds of the issuance of General Long-Term Debt should be accounted for as an Other Financing Source of the governmental fund which will expend the proceeds (except Special Assessment Funds). When General Long-Term Debt is issued, entries must also be made in the General Long-Term Debt Group. When short-term debt (having a maturity date of less than one year from the issuance date) is issued, the maturity amount should be recorded as a current liability of the fund receiving the proceeds.

Estimated Proceeds of Issuance of General Long-Term Debt		61300B
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A budgetary account showing the amount of general long-term debt proceeds budgeted for the fiscal year.

Issuance of Term Bonds/Warrants		61310
Reserved for Local Use for Issuance of Term Bonds/Warrants	61311-61319	
Issuance of Serial Bonds/Warrants		61320
Reserved for Local Use for Issuance of Serial Bonds/Warrants	61321-61329	
Issuance of Revenue Bonds/Warrants		61330
Reserved for Local Use for Issuance of Revenue Bonds/Warrants	61331-61339	
Issuance of Long-Term Loans/Notes Payable		61340
Reserved for Local Use for Issuance of Long-Term Loans/Notes Payable	61341-61349	
Premiums on General Long-Term Debt Issued		61350

This account is to be used to record the amount by which the proceeds of the issuance of General Long-Term Debt exceeds the face value or principal amount of the debt instrument, if any.

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Reserved for Local Use for Premiums on General Long-Term Debt Issued	61351-61359	
Inception of Capital Lease-Purchase Contract		61360
<i>This account is to be used to account for the present value of the capital lease payments at the inception of the lease</i>		
Reserved for Local Use for Inception of Capital Lease-Purchase Contract	61361-61369	
Issuance of Refunding Bonds		61370
Reserved for Local Use for Issuance of Refunding Bonds	61371-61379	
Reserved for Local Use for Other Financing Sources	61800-61899	
OTHER FINANCING USES (debit balances)	62000-62999	
<i>Other Financing Uses are outflows of fund resources which decrease fund equity but which are not properly classified as expenditures or expenses.</i>		
Operating Transfers Out	62100-62199	62100
<i>This account series is used for any transfer out to another fund which is not an interfund reimbursement, a loan or a quasi-external transaction; that is, any routine transfer to another fund which is not expected to be repaid. For each Operating Transfer Out there must be a corresponding Operating Transfer In in another fund.</i>		
Estimated Operating Transfers Out		62100B
<i>A general ledger account reflecting the amount of Operating Transfers Out budgeted for a specific fund for the current fiscal year.</i>		
Reserved for Local Use for Operating Transfers Out	62101-62109	
Operating Transfers Out to the General Fund		62110
Reserved for Local Use for Operating Transfers Out to General Funds	62111-62119	
Operating Transfers Out to State and Local Special Revenue Funds	62120-62139	62120
Operating Transfers Out to Gasoline Tax Fund		62121
Operating Transfers Out to Public Buildings, Roads and Bridges Fund		62122

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Operating Transfers Out to Public Highway and Traffic Fund		62123
Operating Transfers Out to RRR Gasoline Tax Fund		62124
Operating Transfers Out to Secondary Road Fund		62125
Operating Transfers Out to Reappraisal Fund		62126
Operating Transfers Out to Work Release Fund		62127
Operating Transfers Out to Cigarette Tax Fund		62128
Operating Transfers Out to Services to the Indigent Fund		62129
Reserved for Local Use for Operating Transfers Out to State and Local Special Revenue Funds	62135-62139	
Reserved for Local Use for Operating Transfers Out to Federal Special Revenue Funds	62140-62149	
Operating Transfers Out to Capital Projects Fund		62150
Reserved for Local Use for Operating Transfers Out to Capital Projects Funds	62151-62159	
Operating Transfers Out to Debt Service Funds		62160
Reserved for Local Use for Operating Transfers Out to Debt Service Funds	62161-62169	
Operating Transfers Out to Enterprise Funds		62170
Reserved for Local Use for Operating Transfers Out to Enterprise Funds	62171-62179	
Operating Transfers Out to Internal Service Funds		62180
Reserved for Local Use for Operating Transfers Out to Internal Service Funds	62181-62189	
Operating Transfers Out to Trust Funds		62190
Reserved for Local Use for Operating Transfers Out to Trust Funds	62191-62199	

	<u>NUMBER SERIES</u>	<u>ACCOUNT NUMBER</u>
Payment to Refunded Bond Escrow Agent		62200
<i>This account is to be used to record the amount of refunding bond proceeds which are paid to an escrow agent to be placed in trust to satisfy the debt service requirements of a previously outstanding general long-term debt.</i>		
Estimated Payments to Refunded Bond Escrow Agent		62200B
<i>A budgetary account showing the budgeted amount of refunding bond proceeds to be paid to an escrow agent to be placed in trust to satisfy debt service requirements of existing general long-term debt.</i>		
Reserved for Local Use for Payment to Refunded Bond Escrow Agent	62401-62499	
Discounts on Bond Issuance		62300
Judgments		62500
PRIOR PERIOD ADJUSTMENT		80000

EXPENDITURE OBJECT CODES

	<u>Number Series</u>	<u>Object of Exp. Code</u>
<u>CHARACTER OF EXPENDITURES/EXPENSES: CURRENT</u>	100-499	
<i>To be used with the five-digit organization code which indicates which county office, department or affiliated agency is receiving the goods or services being purchased or the direct support being provided. Current expenditures are those presumed to benefit the current period only.</i>		
COMPENSATION FOR SERVICES PROVIDED BY COUNTY OFFICIALS AND EMPLOYEES	100-149	
Salaries, Allowances and Fees Paid to County Officials/Employees	100-199	
Reserved for Local Use for Salaries, Allowances and Fees	100-103	
Laundry/Uniform/Clothing Allowances		104
Tool/Equipment Allowances		105
Longevity Pay		106
Subsistence Pay		107
Ex-Officio Fees		108
Coroner's Fees		110
County Officials' Salaries		111
Officials' Legislated Expense Allowances		112
County Employees' Salaries and Wages		113
Part-Time Wages		114
<i>To be used to break out part-time wages for the Appraisal & mapping budget.</i>		
Commission Chairman's Fees for Preparation of Minutes		115
Overtime Pay		116
Commissioners' Court Attendance Fees		117
Commissioners' Road Inspection Fees		118
Salaries Paid to Supernumerary Officials		119

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Employee Benefits Provided by the County	120-149	
Fixed Expense – Auto Allowance		120
Retirement Contributions		121
Health/Dental Insurance <i>Combine only health & dental insurance for the Appraisal & Mapping budget.</i>		122
Life Insurance		123
Social Security & Medicare Taxes – Employers’ Share		124
Workmen’s Compensation Insurance		125
Unemployment Insurance		126
Payments to Retirees – Basic Benefits <i>This includes health insurance for retirees from the Appraisal & Mapping budget.</i>		127
Home Health Care Services		128
Disability Benefits		129
Payments to Retirees - Cost of Living Increases		130
Compensated Absences/Vacation & Sick Leave Pay		140
Reserved for Local Use for Employee Benefits	141-149	
SERVICES PROVIDED BY OTHERS <i>This series of expenditure codes is to be used to record the cost of services provided to the county by outside organizations or by individuals who are not county officials or employees.</i>	150-199	
Photocopying and Duplicating (Also see Print and Bookbinding)		151
Cleaning and Janitorial Services		152
Pest Control Services		153
Legal Services (Also see Prosecution Services)		154
Prosecution Services		155
Medical and Dental Services for County Employees (Including Drug Testing) <i>Includes drug/prescription cards.</i>		156

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Medical and Dental Services for Indigents	157	
Medical and Dental Services for Inmates/Detainees	158	
Investigative Services	159	
Printing and Bookbinding (Also see Photocopying and Duplicating)	160	
Wrecker/Towing Services (Does not include the cost of repairs performed)	161	
Laundry, Dry Cleaning and Alterations	162	
Data Processing Services/Computer Information Technology (IT) Services	163	
Accounting and Auditing Services	164	
Engineering and Architectural Services (Includes landfill closure monitoring costs)	165	
Ambulance Services	166	
Fire Fighting Services	167	
Photo Processing (Includes developing and printing of still photos, slides and movies)	168	
County Ordinance Compilation and Reindexing	169	
Training/Educational Services (Other than law enforcement training)	170	
Organization/Association Membership Fees and Dues	171	
Landfill Dumping Charges	172	
Management Consulting Services	173	
Preparation of Voter Lists	174	
Election Workers' Fees	175	
Law Enforcement Training	176	
Burial of Indigents	177	
Transportation and Freight	178	
<i>This code is to be used only when transportation of freight charge are being paid and an item is <u>not</u> being purchased; for example, when returning an item for repair or exchange. When shipping costs are paid in connection with a purchase, shipping costs should be charged to the same account as the item being purchased, even if the shipping is paid separately to the carrier.</i>		

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Aerial Photography <i>This includes Aerial Photography acquisition and purchase costs only per the Appraisal and Mapping budget.</i>	179	
Geographic Information System (GIS) <i>This includes GIS acquisition and purchase costs only including installation and wiring per the Appraisal & Mapping budget.</i>	180	
Information Technology	181	
Professional Services	182	
Reserved for Local Use for Services Provided by Others	183-198	
Miscellaneous Services Provided by Others <i>This code should be used to record the cost of services provided by others for which none of the above codes is appropriate and for cases in which the cost of the services is not significant and the county does not anticipate purchasing such services often enough in the future to justify creating a separate account number in which to record such costs.</i>	199	
SUPPLIES <i>This code series is used for short-lived goods used in the process of conducting county operations. Also includes long-lived items which do not meet the commission's criteria for capital assets.</i>	200-219	
Reserved for Local Use for Supplies	200	
Data Processing Supplies	201	
Road Signs and Other Road Marking Supplies	202	
Uniforms, Clothing and Footwear	203	
Cigarette Tax Stamps (at cost, not face value)	204	
Film and Other Photography Supplies	205	
Drugs and Medical Supplies	206	
Safety Supplies <i>(Hard hats, high-visibility clothing, warning signals, fire extinguishers, emergency lights, etc.)</i>	207	
Groundskeeping Supplies <i>(Rakes, hoses, fertilizer, weed killer, seed, shrubs, etc.)</i>	208	
Water/Sewer System Supplies (pipe, meters)	209	
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	<u>Number Series</u>	<u>Object of Exp. Code</u>
Office Supplies <i>(Stationery, pens and pencils, printed forms, file folders, staplers, wastebaskets, etc.)</i> <i>Also, see object code 470 for minor equipment and furniture which doesn't meet the County's threshold for capital assets.</i>	211	
Fuels and Lubricants <i>(Gasoline, diesel, kerosene, motor oil, axle grease, liquid propane gas, transmission fluid, etc.)</i>	212	
Road Construction and Maintenance Supplies <i>(Concrete, pipe, gravel, sand, crushed stone, tar, asphalt, etc.)</i>	213	
Small Tools and Minor Equipment <i>(Wrenches, hand drills and saws, hammers, etc.; excludes minor office equipment and spare parts)</i>	214	
Tires and Tubes <i>(Tires, tubes, weights, valves, stems, tire patches, etc.)</i>	215	
Cleaning and Janitorial Supplies <i>(Detergents, disinfectants, polishes, cleaning abrasives, etc., as well as the implements with which to apply them such as, brooms, mops, brushes, sponges, garbage bags, etc.)</i>	216	
Vehicle Repair and Maintenance Supplies <i>(Spark plugs, hoses, belts, wiper blades, batteries, fuses, headlights, water and fuel pumps, etc.)</i>	217	
Food, Food Preparation and Food Servicing Supplies <i>(Food and beverages as well as implements for their preparation serving and storage, such as plates and cups, flatware, pots and pans, storage containers, serving trays, etc.)</i>	218	
Other Miscellaneous Supplies <i>To account for the cost of supplies, which is not properly chargeable to any of the above codes.</i>	219	
OPERATING LEASES/RENTALS <i>Operating leases are those which do not meet the criteria of a capital lease. Generally, an operating lease does not transfer the risks and rewards of ownership nor does it transfer title to the lessee (the county).</i>	220-229	
Operating Leases of Buildings and Land <i>(Includes rental of polling places)</i>	221	
Operating Leases of Data Processing Equipment and Software	222	
Operating Leases of Copying Machines	223	
Operating Leases of Motor Vehicles <i>(Cars, pick-ups, vans, buses, etc.)</i>	224	
Operating Leases of Construction Equipment <i>(Bulldozers, graders, dump trucks, etc.)</i>	225	

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Operating Leases of Storage Space		226
Operating Leases of Other Office Equipment (Typewriters)		227
Rental of Uniforms and Clothing		228
Other Operating Leases <i>To include the costs of operating leases which are not properly included in any of the above accounts.</i>		229
REPAIRS AND MAINTENANCE PERFORMED BY OTHERS	230-242	
<i>This series of expenditure codes is to be used for the cost of both <u>labor and materials</u> provided by individuals or organizations outside the county government for the repair and maintenance of county property. The cost of <u>maintenance agreements</u> should also be charged to this number. Additions to or betterments of county property which meet the definition of capital outlay should be charged to an appropriate capital outlay code.</i>		
Repairs and Maintenance of Utility Systems and Related Equipment <i>Includes repairs and maintenance of all components of water, sewer, electric and natural gas systems and of all equipment related to their operation.</i>		230
Repairs and Maintenance of Buildings, Land and Improvements Other than Buildings <i>Includes the following services when performed by persons/organizations other than county employees: painting of building interiors and exteriors, normal re-roofing, routine grounds maintenance, plumbing and wiring repairs, repaving of parking lots, replacement of broken windows, etc.</i>		231
Repairs & Maintenance - Construction Equipment <i>Includes routine repairs and maintenance of equipment such as bulldozers, road graders, dump trucks, ditch witches, etc.</i>		232
Repairs and Maintenance of Office Equipment and Copying Machines <i>Includes routine repairs and maintenance of and maintenance agreements on typewriters, calculators, cash registers, tape recorders, dictaphones, adding machines, check-writers, copiers, etc. (Repairs on object code 211 items for Appraisal & Mapping budget.)</i>		233
Repairs and Maintenance of Motor Vehicles <i>Includes routine repairs and maintenance of cars, pick-up trucks, vans, buses, jeeps, etc. Improvements on a vehicle's original capacity or major overhauls which extend its original estimated useful life should be accounted for as capital outlays and not as repairs and maintenance. (Repairs on object code 550 items for Appraisal & Mapping budget.)</i>		234
Repairs and Maintenance of Data Processing Equipment <i>Includes repairs and maintenance of and maintenance agreements on central processors, display stations, printers, memory storage units, modems, telephone line connections, etc. (Repairs on object code 580 items for Appraisal & Mapping budget.)</i>		235

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Repairs and Maintenance of Communications Equipment <i>Includes repairs and maintenance of and maintenance agreements on telephone systems, two-way radios, walkie-talkies, beepers, transmitters, receivers, radio towers, etc. (Repairs on object code 542 items for Appraisal & Mapping budget.)</i>	236	
Repairs & Maintenance - Voting Machines <i>Includes repairs and maintenance of voting machines.</i>	237	
Contractual Repairs & Maintenance - Roads & Bridges <i>To be used for the cost of road and bridge maintenance performed by a private contractor rather than by county employees.</i>	238	
Repairs & Maintenance – GIS Hardware <i>For the Appraisal & Mapping Budget, it includes routine repairs and maintenance on object codes 180 & 587 (GIS Hardware).</i>	239	
Repairs & Maintenance – GIS Software <i>For the Appraisal and Mapping budget, it includes routine repairs, maintenance and licensing of the GIS Software.</i>	240	
Repairs & Maintenance – Appraisal Data Processing Software <i>For the Appraisal and Mapping budget, it includes routine repairs, maintenance and licensing for the data processing software.</i>	241	
Other Miscellaneous Repairs and Maintenance of County Assets <i>Includes the cost of repairs and maintenance of county assets performed by individuals or organizations other than county employees, which is not properly included in any of the above expenditure codes.</i>	242	
UTILITIES	243-249	243
Electricity		244
Natural Gas		245
Water and Sewage		246
Propane Gas		247
Reserved for Local Use for Utilities	248-249	
COMMUNICATIONS SERVICES	250-259	
Telephone Services <i>Includes the cost of both local and long-distance service. Counties, which would like to separate the cost of long-distance service, may use this code for local service only and use a number in the reserved series for long-distance services.</i>		251

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Postage and Postal Service <i>Includes the cost of postage, post office box/drawer rental, overnight delivery of mail and packages, certified delivery, etc.</i>	252	
Advertising <i>Includes the cost of legal notices and financial statements published in the newspaper and other advertisements of public information.</i>	253	
Beeper Service <i>For the Appraisal and Mapping budget, this includes the cost of services only and not purchases or repairs.</i>	254	
Cellular Service <i>For the Appraisal and Mapping budget, this includes the cost of services only and not purchases or repairs.</i>	255	
Internet Service <i>For the Appraisal and Mapping budget, this includes the cost of services only and not purchases or repairs.</i>	258	
Reserved for Local Use for Communications Services	259	
TRAVEL	260-269	
Per Diem <i>A fixed daily allowance paid to county officials and employees when traveling in lieu of payment of the actual costs of lodging and meals. (See Lodging and Meals, Account 264)</i>	261	
Mileage for Use of Personal Vehicles <i>A fixed payment per mile paid to county officials and employees when traveling on county business and using their own personal vehicles.</i>	262	
Air Fare <i>The cost of airline tickets purchased by county officials and employees for travel on county business.</i>	263	
Lodging and Meals <i>The cost of county officials' lodging and meals when traveling on county business. Payment of actual costs of lodging and meals should <u>not</u> be made in addition to per diem.</i>	264	
Meeting and Conference Fees <i>The cost of registration fees for county officials' and employees' attendance at meeting which are <u>not</u> primarily educational in nature; for example, the registration fee for the Association of County Commissions of Alabama's annual convention. Registration fees for meetings which <u>are</u> primarily educational (seminars, workshops, training courses, etc.) should be charged to expenditure code 170, Training/Educational Services Provided by Others.</i>	265	
Gasoline for County Vehicles <i>The cost of gasoline or other fuels purchased for use in county vehicles by county officials or employees using the vehicles for travel on county business.</i>	266	

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Reserved for Local Use for Travel	267-268	
Other Travel Expenses <i>Includes parking fees, taxi fares, tolls, photocopying and long-distance calls necessary to the purpose of the trip, etc.</i>		269
INSURANCE	270-279	
Insurance on Buildings and Their Contents <i>Includes coverage for fire, theft, natural disasters, etc.</i>		271
Insurance on Motor Vehicles and Construction Equipment <i>Includes coverage for liability, collision, property damage, medical payments, etc.</i>		272
Surety Bonds		273
General Liability Insurance <i>Blanket coverage for all county officials and employees.</i>		274
Public Officials' Liability Insurance <i>Liability coverage for actions of county officials.</i>		275
Law Enforcement Liability <i>Liability coverage for actions of law enforcement officers, including false arrest insurance.</i>		276
Reserved for Local Use for Insurance		277
Deductibles Paid on Insurance Claims <i>The cost of the deductible amount which must be paid to insurance companies on claims they have paid.</i>		278
DEPRECIATION OF CAPITAL ASSETS	280-289	
<i>Depreciation is the full accrual basis accounting procedure by which the cost of long-lived (capital) assets is divided among the fiscal years which the asset is used. Depreciation expense is recorded in proprietary and fiduciary fund types. It is not recorded in the governmental funds' financial statements since the measurement focus in governmental funds is modified-accrual basis expenditures, not full accrual basis expenses. However, depreciation expense is recorded for governmental funds in the government-wide financial statements through a GASB 34 conversion entry. The entry to record depreciation expense is comprised of a debit to depreciation expense and a credit to an appropriate accumulated depreciation account. (See account number series 17900-17985) There are several different methods of calculating the amount of depreciation expense.</i>		
Depreciation Expense – Land Improvements (Exhaustible)		280
Depreciation Expense – Buildings and Building Improvements		281

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Depreciation Expense - Infrastructure		282
Depreciation Expense – Equipment & Furniture		283
Depreciation Expense – Vehicles and Construction Equipment		284
Depreciation Expense – Assets Under Capital Lease		285
Reserved for Local Use for Depreciation Expense – Other Capital Assets	286-288	
Depreciation Expense – Miscellaneous Capital Assets		289
DIRECT SUPPORT OF COUNTY AGENCIES AND OFFICES		
(APPROPRIATIONS)	290-299	290
<i>To account for transfers of cash to county agencies and offices such as the County Public Health Department, the city-county library, etc. Transfers of cash to governmental agencies and offices which are not directly related to or affiliated with the county, such as the State Health Department or the Alabama Agriculture Extension Service should be accounted for as Intergovernmental expenditures (59200-700). Code 290 should be used with the five digit organization code of the agency or office which is receiving the support. Example: An appropriation from the General Fund to the County Public Health Department would be coded 001-55100-290. If a county chooses to use the detail accounts below, the appropriation to the Health Department would be coded 001-55100-294.</i>		
Direct Support for Public Safety <i>For example: Appropriations to the Sheriff's Department.</i>		291
Direct Support for Highways and Roads		292
Direct Support for Sanitation		293
Direct Support for Health		294
Direct Support for Welfare		295
Direct Support for Culture and Recreation		296
Direct Support for Education		297
Reserved for Local Use for Direct Support of County Agencies and Offices		298
Direct Support for General Government <i>To account for all transfers of cash to county agencies and offices which are not properly included in any of the above detail expenditure codes (291-298).</i>		299
PURCHASES FOR RESALE	300-319	
<i>To account for goods or services purchased in large quantities to be resold to the public by an Enterprise Fund.</i>		

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Purchases of Water for Resale		301
Reserved for Local Use for Purchases or Resale	310-319	
OTHER CURRENT EXPENDITURES/EXPENSES	400-499	
<i>This code number series records the cost of expenditures which benefit only the current fiscal year and which are not properly included in any of the above categories.</i>		
Interest/Finance/Carrying Charges		401
<i>Includes the cost of financing <u>short-term</u> debt. Interest on long-term debt should be charged to object code number series 630-659.</i>		
Relocation of Prisoners		402
<i>Includes all costs incurred in transporting prisoners.</i>		
Housing and Feeding of Prisoners		403
<i>Includes all costs to board and feed county prisoners held in locations other than the county jail.</i>		
Housing and Feeding of Juveniles		404
Purchase of Contraband		405
Rights-of-Way Acquisition		406
Vehicles' License Plates		407
Vital Statistics		408
Subscriptions		409
<i>Includes subscriptions to newspapers, periodicals, technical update services, etc.</i>		
Books and Pamphlets		410
Guardian Ad-Litem Fees		411
Redemption Land Sales Expense		412
Juror's Expenses		413
Voting Machine Expenses		414
Trust Fund Disbursements		415
Absentee Voting Expenses		416

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Equipment & Furniture (not meeting County's threshold for capital assets) <i>Includes any equipment and furniture purchases that do not meet the County's capitalization threshold for capital assets. See 500 object codes for purchases that do meet this threshold.</i>	470	
Reserved for Local Use for Other Current Expenditures/Expenses	471-489	
Bad Debt Expense <i>This expenditure code is used to record the cost of receivables which are estimated or determined to be uncollectible. There are two methods of "writing off" bad accounts receivable. In the <u>direct write-off method</u>, no entry is made until a specific amount has been determined to be uncollectible, at which time Bad Debts Expense is debited and the receivable is credited. The direct write-off method is best used in funds which do not have many transactions involving accounts receivable (for example, Enterprise Funds), the <u>allowance method</u> of writing off uncollectible receivables provides a better matching of bad debt expense with the revenues which generated the receivables which eventually become uncollectible. In the allowance method, an adjusting entry is recorded each fiscal year-end to record the amount of estimated bad debt expense for the fiscal year. The adjusting entry debits Bad Debts Expense and credits Allowance for Uncollectible Accounts (account #14999) with estimated amount of bad debt expense for the year. When specific receivables are determined to be uncollectible using the allowance method, the Allowance for Uncollectible Accounts is debited and the receivable is credited.</i>	497	
Loss on the Disposal of Capital Assets <i>When the capital assets of proprietary funds are disposed of either through sale or discard or by involuntary means (theft, fire, natural disaster, etc.), the amount of gain or loss on the disposal must be calculated and recorded. The first step in recording the disposal of a proprietary fund's fixed asset is to calculate and record depreciation up to the date of disposal. After recording the depreciation up to date, the actual disposal is recorded by (1) debiting Cash for the selling price or the insurance proceeds received in connection with the disposal; (2) debiting Accumulated Depreciation for the amount of depreciation recorded on the disposed asset from the date of purchase through its date of disposal; (3) crediting the appropriate fixed asset account for the historical cost of the disposed asset; and (4) debiting this account or crediting the Gain on Disposal of Capital Assets (account 47901) as necessary to balance the entry. When <u>general capital assets</u> (capital assets purchased with governmental funds) are disposed of, any proceeds are recorded as an Other Financing Source in the receiving governmental fund, the gain or loss on disposal is calculated as described above and this object code is used for the GASB 34 conversion entry if the calculation results in a loss. The object code would be attached to the expenditure account for which the asset had been originally purchased.</i>	498	
Miscellaneous Other Current Expenditures/Expenses <i>This expenditure code should be used to reflect the cost of goods or services which benefit the current period only, the cost of which is small in amount and which is not properly included in any other object account number in the series 100-499.</i>	499	

	<u>Number Series</u>	<u>Object of Exp. Code</u>
CHARACTER OF EXPENDITURES: CAPITAL OUTLAY	500-599	
<i>This series of expenditure code numbers is to be used to record the cost of capital assets acquired by governmental fund types. Expenditures for capital assets, since they are long-lived assets, are presumed to benefit current and future periods. Whenever a capital outlay expenditure is recorded in a governmental fund, a corresponding entry must be made in the GASB 34 Capital Assets Group (CAG). Purchases of capital assets by governmental funds are recorded as expenditures since the measurement focus of governmental funds is the source and use of available, spendable financial resources. For governmental fund types, there should be a GASB 34 conversion entry to convert the capital outlay expenditures to additions to capital assets. The GASB 34 conversion entry would essentially clear the 500 object codes to zero for the government-wide financial statements. In proprietary fund types, purchases of capital assets are debited to capital asset accounts and then that cost is divided among the fiscal years in which the capital asset is used through the process of recording depreciation.</i>		
Land	510-519	510
Direct Land Purchase Price		511
Legal, Real Estate, Recording and Other Fees for Land Purchase		512
Land Cleaning and Grading and Demolition of Unwanted Structures		513
Reserved for Local Use for Land	516-518	
Miscellaneous Land Purchase Costs		519
BUILDINGS	520-529	520
<i>Includes mobile homes and portable buildings.</i>		
Direct Building Purchase or Construction Price		521
Legal, Real Estate, Recording and Other Fees for Building Purchase		522
Architects' and Engineers' Fees		523
Additions and Renovations		524
<i>Includes the cost of enlargements and improvements. Does <u>not</u> include the cost of routine repairs and maintenance such as painting, re-roofing, replacement of broken windows, etc.</i>		
Reserved for Local Use for Buildings	527-528	
Miscellaneous Building Purchase or Construction Costs		529
IMPROVEMENTS OTHER THAN BUILDINGS	530-539	530
<i>Includes the cost of long-lived land improvements such as sidewalks, fences, parking lots, walls, permanent lighting fixtures, etc.</i>		

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Improvements' Direct Purchase or Construction Price		531
Architects' and Engineers' Fees		532
Reserved for Local Use for Improvements	536-538	
Improvements' Miscellaneous Purchase or Construction Costs		539
EQUIPMENT AND FURNITURE	540-549	
<i>Includes any separately paid transportation or freight charges and installation.</i>		
Office Equipment and Furniture		541
<i>Includes the cost of desks, chairs, tables, filing and storage cabinets, bookcases, typewriters, calculators, cash registers, lamps, clocks, framed pictures, tape recorders, etc., if they meet the commission's criteria for classification as capital assets.</i>		
Communications Equipment		542
<i>Includes the purchase and installation costs of telephone systems, beepers, walkie-talkies, two-way radios, radio monitors, transmission towers, etc., if they meet the commission's criteria for classification as capital assets.</i>		
Voting Machines		543
Reserved for Local Use for Equipment and Furniture	547-548	
Miscellaneous Equipment and Furniture Acquisition Costs		549
<i>Includes the cost of any equipment or furniture item, which is not properly included in any other capital outlay expenditure code (series 500-599).</i>		
MOTOR VEHICLES	550-559	550
<i>Includes cars, pick-ups trucks, vans, buses, jeeps, ambulances, fire trucks, etc.</i>		
Direct Purchase Price of Motor Vehicles		551
Transportation, Freight and Dealer Preparation of Motor Vehicles		552
Major Overhauls and Improvements of Motor Vehicles		553
<i>Includes the cost of changes to motor vehicles which extend their original useful life, expand their capacity or enable them to perform some task(s) of which they were not originally capable.</i>		
Boats		554
Reserved for Local Use for Motor Vehicles	556-558	
Miscellaneous Motor Vehicle Acquisition Costs		559

	<u>Number Series</u>	<u>Object of Exp. Code</u>
CONSTRUCTION EQUIPMENT	560-569	
<i>Includes bulldozers, front loaders, road graders, dump trucks, asphalt spreaders, ditch witches, rollers, large flat-bed trucks, cranes, tractors, etc.</i>		
Direct Purchase Price of Construction Equipment		561
Transportation, Freight and Dealer Preparation of Construction Equipment		562
Major Overhauls and Improvements of Construction Equipment		563
<i>Includes the cost of changes to construction equipment which extend its original estimated useful life, expand its capacity or enable it to perform some task(s) of which it was not originally capable.</i>		
Reserved for Local Use for the Construction Equipment	566-568	
Miscellaneous Construction Equipment Acquisition Costs		569
INFRASTRUCTURE FIXED ASSETS	570-579	570
<i>Reporting of public domain or “infrastructure” capital assets is now mandatory. Because such assets represent such a large investment of public funds, counties must account for these expenditures as capital outlays with appropriate entries in the GASB 34 Capital Assets Account / Fund. Infrastructure assets are long-lived capital assets that normally are stationary in nature and normally can be preserved for a significantly greater number of years than most capital assets. Examples of infrastructure assets include roads, bridges, tunnels, drainage systems, water and sewer systems, dams, and lighting systems. Buildings, except those that are an ancillary part of a network of infrastructure assets, should not be considered infrastructure assets. The determination of major general infrastructure assets should be at the network or subsystem level and should be based on these criteria:</i>		
<ul style="list-style-type: none"> <i>a. The cost or estimated cost of the subsystem is expected to be at least 5 percent of the total cost of all general capital assets reported in the first fiscal year ending after June 15, 1999, or</i> <i>b. The cost or estimated cost of the network is expected to be at least 10 percent of the total cost of all general capital assets reported in the first fiscal year ending after June 15, 1999.</i> 		
<i>Reporting of non-major networks is encouraged but not required.</i>		
Streets and Roads – Construction Costs		571
<i>Includes county labor and materials and amounts paid to contractors.</i>		
Streets and Roads – Other Than Construction Costs		572
<i>Includes engineering and inspection costs, rights-of-way acquisition, etc.</i>		
Bridges – Construction Costs		573
<i>Includes county labor and materials and amounts paid to contractors.</i>		
Bridges – Other Than Construction Costs		574
<i>Includes engineering and inspection costs, rights-of-way acquisition, etc.</i>		

	<u>Number Series</u>	<u>Object of Exp. Code</u>
Curbs, Gutters and Sidewalks		575
Drainage Systems – Construction Costs <i>Includes county labor and materials and amounts paid to contractors.</i>		576
Drainage Systems – Other Than Construction Costs <i>Includes engineering and inspection costs, rights-of-way acquisition, etc.</i>		577
Lighting Systems		578
Other Infrastructure Capital Assets Acquisition Costs <i>Includes any costs to acquire infrastructure capital assets which are not properly included in any of the above accounts (571-578).</i>		579
DATA PROCESSING EQUIPMENT <i>Includes the direct purchase price plus any transportation, installation and testing costs.</i>	580-589	580
Central Processing Units		581
Data Storage/Memory Units		582
Printers		583
Display Stations/Data Entry Terminals		584
Equipment Linkage/Modems, Wiring and Cables		585
Software		586
GIS Hardware <i>Includes replacement and upgrade of GIS hardware for the Appraisal and Mapping budget.</i>		587
GIS Software <i>Includes replacement and upgrade of GIS software for the Appraisal and Mapping budget.</i>		588
Miscellaneous Data Processing Equipment		589
Reserved for Local Use for Data Processing Equipment		590
MISCELLANEOUS CAPITAL OUTLAYS <i>Includes the cost of capital outlays which are not properly included in any of the above accounts (500-590).</i>	591-599	591
Reserved for Local Use for Miscellaneous Capital Outlays	591-599	

	<u>Number Series</u>	<u>Object of Exp. Code</u>
<u>CHARACTER OF EXPENDITURES: DEBT SERVICE</u>	600-699	
<i>Includes the cost of interest on and repayment of principal of <u>general long-term debt</u>; but does <u>not</u> include the payment of refunding bond proceeds to an escrow agent to be placed in trust to meet the debt service requirements of previously outstanding general long-term debt (see account number 62200). Since debt service expenditures are for repayment of long-term debt and the proceeds of long-term debt are generally used to finance the purchase or construction of long-lived assets, debt service expenditures are presumed to benefit prior and future periods as well as the current fiscal year. General long-term debt includes not only liabilities arising from the issuance of county bonds and warrants, but also from lease-purchase contracts and long-term notes payable, etc. These object codes should be used only with the Debt Service five digit basic account number (59100).</i>		
REPAYMENT OF GENERAL LONG-TERM DEBT (GLTD) PRINCIPAL	600-629	600
Reserved for Local Use for Repayment of GLTD Principal	601-629	
INTEREST ON GENERAL LONG-TERM DEBT (GLTD)	630-659	630
Payment to Refunded Bond Escrow Agent		631
Reserved for Local Use for Interest on GLTD	632-659	
FISCAL AGENTS'/TRUSTEES/ FEES FOR GENERAL LONG-TERM DEBT	660-689	660
Reserved for Local Use for Fiscal Agents'/Trustees' fees for GLTD	661-689	
MISCELLANEOUS DEBT SERVICE EXPENDITURES.	690-699	690
BOND ISSUANCE COSTS		691
<i>This object code may be used to record the issuance costs associated with the issuance of long-term debt. This replaces the use of the previous account 62400.</i>		
Reserved for Local Use for Miscellaneous Debt Service Expenditures	692-699	
<u>CHARACTER OF EXPENDITURES: INTERGOVERNMENTAL</u>		700
<i>Expenditures where one governmental unit (the county) transfers resources to another governmental unit. County affiliated agencies and offices are <u>not</u> considered to be other governmental units; therefore, direct support in the form of cash transfers to county affiliated agencies and offices should be accounted for as current expenditures (see object code 290). Code 700 should <u>only</u> be used with the five digit Intergovernmental expenditure code, 59200, and only to record cash payments to governmental units which are not directly affiliated with the county.</i>		

ESTABLISHING A COUNTY CHART OF IN-USE ACCOUNTS BY FUND

The master lists of fund numbers, basic account numbers and object of revenue/expenditure numbers given in the preceding subsections provide an adequate basis for selecting appropriate account numbers during the course of the accounting process. However, clerks/administrators may find that it is helpful to prepare a chart of accounts for each of the county's individual funds and GASB 34 groups, including in such a chart of accounts only those account numbers which are actually being used in that specific fund or GASB 34 group.

The most significant benefit resulting from the preparation of a chart of in-use accounts for each county fund is the reduced likelihood that an incorrect account number will be used in recording the transactions of that fund. Preparing charts of accounts which are specifically tailored to individual funds also helps identify new accounts which may be needed to properly record the transactions of each fund and saves time in looking up account numbers in the future, since the individual fund chart of accounts are much more compact than the master list. When an individual fund chart of accounts is prepared, space should be allowed for adding new accounts which may be needed in accounting for that fund in the future.

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SECTION 5

FINANCIAL REPORTING WITH SAMPLE FINANCIAL STATEMENTS AND NOTES

The sample financial statements included in this section are intended to provide useful examples of how to report different situations that may occur and affect the various county commissions' financial statements. These financial statements and related notes are not intended to be all-inclusive, as it is not practical to attempt to present every situation that exists in the sixty-seven counties.

Governmental financial reporting is an integral part of the annual accounting process and is the end result of the consistent recording of financial accounting transactions in a systematic method throughout the year.

County commissions may have the following basic financial statements and Notes to the Financial Statements:

(Click the hyperlink to go to the applicable Financial Statement)

Statement of Net Assets ([Exhibit 1](#))

Statement of Activities ([Exhibit 2](#))

Balance Sheet – Governmental Funds ([Exhibit 3](#))

Reconciliation of the Balance Sheet of Governmental Funds to the Statement of Net Assets ([Exhibit 4](#))

Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental Funds ([Exhibit 5](#))

Reconciliation of the Statement of Revenues, Expenditures and Changes in Fund Balances to the Statement of Activities ([Exhibit 6](#))

Statement of Net Assets – Proprietary Funds ([Exhibit 7](#))

Statement of Revenues, Expenses and Changes in Net Assets – Proprietary Funds ([Exhibit 8](#))

Statement of Cash Flows – Proprietary Funds ([Exhibit 9](#))

Notes to the Financial Statements ([Notes](#))

For a template of how the Chart of Accounts rolls up into the Statement of Activities and the Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental Funds, follow the applicable links below:

Template for Statement of Activities ([STMT ACT TEMPLATE](#))

Template for Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental Funds ([INC STMT TEMPLATE](#))

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SECTION 6

AUDIT REQUIREMENTS

I. INTRODUCTION

The Department of Examiners of Public Accounts will perform an audit of the financial statements of the county commission and perform reviews of compliance by the county commission with applicable laws and regulations of the State of Alabama. In addition, if the county commission receives federal financial assistance, the audit will also include these funds within the scope of the audit.

The audit will be performed under the authority of the *Code of Alabama 1975*, Section 41-5-14 and will be conducted in accordance with generally accepted auditing standards and the standards for financial audits contained in the *Government Auditing Standards*. If the commission receives enough federal financial assistance to qualify for a Single Audit, then an audit will be conducted in accordance with the Single Audit Act Amendments of 1996 and with the provisions of OMB Circular A-133, "Audits of State and Local Governments, and Non-Profit Organizations."

The audit will include tests of the accounting records along with other procedures considered necessary to express an opinion on whether or not the financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles. The audit will also review the county commission's compliance with laws and regulations. Furthermore, with respect to federal financial assistance, the audit will report on the commission's schedule of expenditures of federal awards and on its internal controls as required by the Single Audit Act.

The county commission is responsible for establishing and maintaining effective internal controls. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of the internal control policies and procedures. The objectives of internal controls are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, that transactions are executed in accordance with management's authorizations, are recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles, and that federal financial assistance programs are managed in compliance with applicable laws and regulations.

In planning and performing an audit of the county commission, the internal controls will be considered in order to determine the necessary audit procedures for the purpose of expressing an opinion on the commission's financial statements and on its compliance with requirements applicable to major programs and to report on the internal controls in accordance with OMB Circular A-133.

The Examiner is required to obtain an understanding of the design of the relevant policies and procedures and whether they have been placed in operation, and will assess control risk. Tests of controls may be performed to test the effectiveness of certain policies and procedures that are considered relevant in preventing and detecting errors and irregularities that are material to the financial statements and to prevent and detect misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. The tests will be less in scope than would be necessary to render an opinion on the internal control policies and procedures and, accordingly, no opinion will be expressed.

With respect to a federal single audit, tests of controls will be performed, as required by OMB Circular A-133, to obtain an understanding of internal controls over federal programs sufficient to plan the audit to

support a low assessed level of control risk for major programs to support an opinion on compliance for each major program. The Examiner will also perform tests of controls over compliance with the fourteen types of compliance requirements that are applicable to each of the commission's major programs. The tests will be less in scope than would be necessary to render an opinion on the internal control policies and procedures and, accordingly, no opinion will be expressed.

The Examiners will communicate with management and those charged with governance on internal control related matters that are required to be communicated under professional standards and *Government Auditing Standards*. A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. For financial statement purposes, a significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. For single audit purposes, a significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control. The Examiners will also inform you of any non-reportable deficiencies or other matters involving the internal control structure, if any, as required by OMB Circular A-133.

Compliance with laws, regulations, contracts and grant agreements applicable to the county commission is the responsibility of the county commission. As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, tests will be performed of the county commission's compliance with certain provisions of laws, regulations, contracts and grants. However, the objective of this audit will not be to provide an opinion on overall compliance with such provisions, and will not express such an opinion.

If the county commission qualifies for a federal single audit, the audit will be conducted in accordance with the standards referred to in the second paragraph. With respect to federal financial assistance programs, those standards also require that the audit be planned and performed to obtain reasonable assurance about whether material noncompliance with the fourteen types of compliance requirements: **activities allowed or unallowed; allowable costs/costs principles; cash management; Davis-Bacon Act; eligibility; equipment and real property management; matching, level of effort, earmarking; period of availability of federal funds; procurement and suspension and debarment; program income; real property acquisition and relocation assistance; reporting; subrecipient monitoring; and special tests and provisions (which are program specific)**; applicable to major programs occurred. The purpose of the audit will be to express an opinion on the county commission's compliance with the compliance requirements applicable to major programs listed in the previous sentence.

Audit procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include correspondence with selected individuals, creditors, and financial institutions. Written representations from the county commission's attorneys will be required as part of the audit as well as certain written representations from the chairman and county administrator about the financial statements and related matters.

In order to properly plan the audit and to update the appropriate records to reflect the current operations, the following items will be needed at the beginning of the audit to facilitate the timely completion of the engagement. For a checklist of the items, [click here](#).

These requirements are listed below on a transaction cycle basis:

1) Cash and Investments

The following items will be needed in the audit of cash and investments:

- A list of all bank statements with beginning and ending check numbers for each fiscal year. (Reference any changes of bank statements in the middle of a fiscal year.)
- All bank statements and cancelled checks (the electronic records of checks sent by the depository on CD will be sufficient).
- A monthly bank reconciliation between the bank statement and recorded cash.
- Copies of CDs (issue date and maturity date and amount).
- All journals that include cash and/or investment transactions (trial balance, general journal, cash receipts journal, cash disbursements journal, etc.).
- A breakdown of petty cash accounts and custodial agents of these funds.
- Statements from Qualified Public Depositories as of September 30th summarizing all county deposits covered under the SAFE Program.

2) Receivables and Revenues

- Receivables subsidiary listing for each fund. This is simply a listing of agencies or individuals that owe the county as of September 30. This listing should make up the amounts shown on the balance sheet as Receivables at September 30.
- A reconciliation of interfund receivables and payables. This should contain a list of each fund that makes up the balances for each interfund accrual.
- A reconciliation of interfund transfers in and out.
- Receipts (deposits) documentation should be filed by fund and/or by month.
- Cash Receipts and Revenues Journal.

3) Capital Assets and Capital Outlay

- A detailed capital asset subsidiary listing maintained for all capital assets by fund and function of expenditure by capital asset category (i.e., Land, Buildings, Improvements, Furniture and Equipment Under Capital Lease, etc.).
- A reconciliation of capital outlay expenditures to additions of capital assets. Give reasons for any large differences between these two amounts.
- A reconciliation of the capital asset subsidiary listing to the capital asset general ledger balance. These amounts should agree. If not, explain why.

- Documentation for reductions to capital assets (commission has to authorize). Items should not be removed from the capital asset subsidiary listing without approval of the county commission - as reflected in the commission's minutes.
- Depreciation schedules should be prepared for all capital assets which exceed the commission's capitalization threshold by function of expenditure. A depreciation policy should also be prepared laying out the framework for the items depreciated.
- Capitalization policy should be written laying out the county's policies for capitalizing assets. This policy should contain brief descriptions and specific dollar amounts for various types of capital assets.

4) Expenditures (Purchases and Encumbrances) and Related Liabilities:

- Accounts Payable subsidiary listings for each fund. This is simply a listing of agencies, vendors or individuals that the county owes as of September 30. This listing should make up the amounts shown on the balance sheet as Accounts Payable at September 30.
- Voucher (Claims) File. This is a file of warrants (claims, checks, expenditures files, etc.) which should include a "claim for payment." initiated by a majority of commission members (including the chairman), invoices or travel claims, purchase orders (except for routine monthly expenditure - utilities, lease payments, etc.), requisitions, etc. This file should include every cash disbursement made in each fund for the entire fiscal year.
- Voided check file.
- A file should be maintained for each prior period adjustment (PPA) which contains documentation as to the purpose of the PPA.

5) Debt and Debt Service

- Minutes reference - authorization of debt issuance.
- A file should be kept for each Notes Payable, Capital Lease-Purchase Agreements and each Bond/Warrant. This file should contain any signed agreements, amortization schedules, payment schedules, additions to and reductions from principal balances in the long-term debt.
- Long-term debt principal balances shown on the general ledger should be reconciled to the amortization schedule.
- Calculation of Constitutional Debt Limit.

6) **Payroll/Personnel**

- Personnel files should be maintained on each employee. These files should contain: Employee application, date of employment, pay rate and changes in pay rate and position, payroll deductions, W-4 Form, etc.
- Total W-2 wages should be reconciled to the general ledger and payroll register wages paid.
- Payroll Journals should contain employees' wages along with the various deductions from their gross wages. A year-to-date balance of wages should also be included.
- For the "Defined Benefit Pension Plan" Note to the Financial Statements, the Examiner will need the total payroll for each fiscal year and the total payroll covered by the retirement system for each fiscal year. Also needed is the percentage contributed by the county and the amount contributed including cost of living adjustments.
- OPEB Actuarial Valuation (every three years)
- The amount of the monthly premium and the percentage coverage for each retired employees' health and dental premiums, including the number of participants and the total fiscal year contributions, for the "Other Post-Employment Benefits (OPEB)" Note. The date of the resolution of the county commission, which established these, provisions (Reference: *Code of Alabama 1975, Section 11-91-8*).
- There should be a file maintained which shows contributions made by each official participating in the Supernumerary program. This file should reflect contributions made by fiscal year.
- Include documentation of compensated absences for Note disclosure and financial reporting.

7) **Federal and State Grants**

- Separate files should be kept for each grant. Attention should be given to grants from ADECA. Each dollar received should be accounted for either as a documented expenditure or as a cash balance.
- List of federal funds received along with budgets, actual expenditures and addresses of grantor agencies.

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SECTION 7

INTERNAL CONTROLS AND FEDERAL SINGLE AUDITS

INTRODUCTION

Internal control and auditing are very important areas of a County's accounting function. The purpose of this section is to give a practical understanding of these areas. Specific subsections are devoted to internal controls and the Single Audit Act.

INTERNAL CONTROL

According to Statement on Auditing Standards (SAS) No. 109, (SAS 109 replaces SAS 55 for fiscal year 2007/08) internal control is a process – effected by those charged with governance, management and other personnel – designed to provide reasonable assurance regarding the achievement of the following objectives:

- a) Reliability of financial reporting,
- b) Effectiveness and efficiency of operations,
- c) Compliance with applicable laws and regulations.

Five Components of Internal Control

(1) Control Environment - The Control Environment sets the tone of an entity, and influences the control consciousness of its employees. It is the foundation for the four other components of internal control. The Control Environment provides the discipline and structure. Officials and management are responsible for:

- a) Upholding integrity and ethical values,
- b) A commitment to competence,
- c) Participation of those charged with governance in the audit process,
- d) The County's philosophy and operating style,
- e) The organizational structure,
- f) Assignment of authority and responsibility of duties, and
- g) Human resource policies and procedures.

(2) Risk Assessment - Risk Assessment is the entity's identification and analysis of relevant risks to achievement of its objectives, forming a basis for determining how the risks should be managed. Officials and management should ensure that risks are minimized. A number of things effect risk such as:

- a) Changes in operating environment;
- b) New Personnel;
- c) New or revamped information system;
- d) Rapid growth; and
- e) New accounting pronouncements.

(3) Control Activities - These are the policies and procedures that help ensure that official's and management's directives are carried out. The following are examples of specific control activities:

- a) Authorization of transactions
- b) Segregation of duties
- c) Safeguarding of assets
- d) Asset Accountability

(Note: separation of duties in very small counties may be impractical). Adequate segregation of duties includes:

- i) Separation of Operational responsibility from Record Keeping responsibility. The employee performing a certain activity should not account for that activity.
- ii) Separation of Custody of assets from Accounting for those assets. For example, the employee collecting and receipting property taxes should not be the one preparing the assessment amounts, etc.
- iii) Separation of Authorization of transactions from the Custody of related assets. For example, the employee who prepares payroll checks should not be the person who also has the authority to hire/fire employees. This could enable this person to authorize paychecks to fictitious or terminated employees.
- iv) Separation of duties within the Accounting function. The accounting function should be organized in such a way as to provide independent cross-checks of employees' work by other employees.

(4) Information and Communication Systems - These are the identification, capture, and exchange of information in a form and time frame that enable people to carry out their responsibilities. The information system (computer system) should be properly documented as to:

- 1) Classes of transactions significant to the financial statements,
- 2) How those transactions are initiated,
- 3) The accounting records (reports: cash receipts, cash disbursements, trial balances, expenditure journals, etc.)
- 4) The accounting processing involved from the initiation of a transaction to its inclusion in the financial statements, and
- 5) The financial reporting process used to prepare the entity's financial statements, including significant accounting estimates and disclosures.

(5) Monitoring - This is the process of assessing the quality of the internal control performance over a period of time. Monitoring includes how those activities are used to initiate corrective action.

Internal Controls over Transaction Cycles

The internal controls and its related components are the responsibility of those charged with governance, management and other personnel. The following are a listing of the various control mechanisms which may be used to increase the controls over the various transaction cycles:

(1) Cash and Investments

- a) Cash and investment records should be reconciled to depository (bank) records on a monthly basis at proper cut-off dates by someone other than the person(s) who receipt/disburse cash.
- b) Bank reconciliations should be reviewed periodically by the Finance Director (Chief Accountant/Administrator).
- c) Establish controls over all activities and locations which receive, maintain and expend cash.
- d) The Commission should annually authorize the depositories used by the County.
- e) Transfers of cash between funds should be properly identified, classified and authorized and meet legal restrictions.
- f) Review Qualified Public Depositories (QPDs) year-end statements to ensure each of the County's deposit accounts are listed.
- g) Review investment portfolio for proper legal authority and determine whether investment yields are in accordance with agreements (Reference legal source).
- h) Collateral should be monitored periodically to determine if it is sufficient to cover the investments held by the depository.
- i) Elected Officials and key management personnel should be sufficiently bonded.

(2) Receivables and Revenues

Revenues become receivable when they are both "measurable" and "available." Available means generally collectible within the current period (or soon enough thereafter to pay current liabilities). Measurable refers to the ability to quantify or determine the amount to be received.

- a) Receivable subsidiary listing should be reconciled to the general ledger on a monthly basis.
- b) Interfund receivables and payables and interfund transfers in and out should be reconciled on a monthly basis.
- c) Receipts should be pre-numbered.
- d) Mail should be opened by someone having no access to cash receipts or accounts receivable records (two people may open mail if segregation of duties is a problem).
- e) Receipts should be deposited intact on a daily basis.
- f) Deposits should be periodically compared to cash receipts book by an employee independent of the receipting and depositing functions.
- g) Restricted revenues should be maintained to ensure that the funds are used for the specified purpose.

(3) Capital Assets and Capital Outlay

The costs associated with the acquisition of capital assets are recorded as current period expenditures of the respective fund. The same amount is also recorded as an addition to the capital asset subsidiary listing. When these assets are disposed of, their cost is removed from the capital asset subsidiary listing.

- a) A detailed listing of capital assets should be updated each month.
- b) All capital asset additions and deletions should be authorized by the County Commission, and should be recorded as such in the Commission Minutes, prior to acquisition or disposal.
- c) Physical inventories should be conducted on a periodic basis.
- d) If assets are transferred from one department to another, and if the funds are restrictive, then the receiving department should reimburse the transferring department for the capital asset at market value.
- e) Capital Leases should be recorded in the capital asset subsidiary listing at initial principal plus additional costs of the asset as an asset under capital lease. When the lease is paid off, the asset should be reclassified to the appropriate capital asset category.
- f) Capital outlay expenditures should be compared to the budgeted amount on a periodic basis.

- g) Capital outlay expenditures should be reconciled to additions to the capital asset subsidiary listing on monthly basis.
- h) Written policies should be established by accounting personnel (and approved by the Commission) for determining items to be capitalized.
- i) Capital assets should be identified by a County inventory decal and/or serial number.
- j) For depreciable property, written policies should exist that determine estimated lives and methods of depreciation.
- k) Proper title/deed should be obtained for all capital assets purchased by the County.
- l) Efforts should be made to safeguard assets from loss due to fire, theft, etc.

(4) Expenditures (Purchasing, Encumbrances) and Related Liabilities:

To assure that budgets are not overspent, governmental units use an encumbrance system to track outstanding purchase commitments that have not yet resulted in liabilities. GASB Cod. Sec. 1600.123 defines encumbrances as “commitments related to unperformed contracts for goods or services.” When a purchase order contract is issued or any other commitment is made, the governmental unit reduces the amount of budgetary authority remaining in the budget category and records an outstanding encumbrance. When the goods or services are received, the encumbrance balance is reduced and the expenditure and liability are recorded.

Expenditures are usually recognized when incurred. Any expenditure which is not immediately paid for results in a liability.

- a) Accounts Payable subsidiary listing should be reconciled to the general ledger on a monthly basis.
- b) Interfund receivables and payables and interfund transfers in and out should be reconciled on a monthly basis.
- c) Controls should be placed in operation to ensure compliance with the State Competitive Bid Law and the Public Works Law.
- d) Expenditures should be monitored to ensure that they are in accordance with the budget.
- e) Encumbrances should be properly identified and supported.
- f) Checks should be pre-numbered and used in sequence.
- g) Voucher packages should be prepared by specified employees who are independent of invoice approval and should contain the following:
 - Claim for payment (and be numbered sequentially)
 - Vendor invoice.
 - Pre-numbered purchase order.
 - Department requisition.
 - Travel report, if applicable.
 - Other documentation as necessary to fully describe the transaction.
- h) Purchase orders (P.O.'s) should be approved by the proper official prior to being issued.
- i) The invoice and related payable should be compared to the approved P.O. and receiving report before approval of payment. The invoice should also be reviewed for accuracy and is in compliance with any purchasing agreement or policies.
- j) Payments should be made for the “original invoice” – not monthly statements. Statements should be marked as such to prevent “double payment”.
- k) Blank checks should be properly secured by a specified custodian.
- l) Checks should be prepared by someone independent of invoice approval.
- m) All checks should be recorded in the cash disbursements journal.
- n) Checks should never be made out to “Cash”. Blank checks should never be signed.
- o) Check signers should be authorized by the County Commission and should be independent of voucher preparation; purchasing and receiving; and time keeping for payroll checks.

- p) If check signing machines are used, the facsimile signature plates should be adequately controlled, used in the presence of the finance director or administrator and controlled by using numbering devices.
- q) All disbursements should be made by check (except for certain petty cash disbursements).
- r) Voided checks should be properly marked "VOIDED" and should be maintained for accountability.

(5) Debt and Debt Service

General obligation bonds pledge the full faith and credit of the County Commission. A constitutional debt limit of 5% of Assessed Property Value less exemptions is the maximum debt that a County Commission may assume.

Revenue bonds are considered "limited-liability" bonds and are generally not considered when determining total debt for constitutional debt limit.

Long-Term debt (bonds, etc.) are recorded in the Government-Wide Statement of Net Assets. As principal payments are made, the amounts are deducted from the total outstanding debt. This is also true for Capital Leases. These debt expenditures (principal and interest) are recorded in the fund the payment is made out of.

- a) New debt should be properly authorized by the County Commission in the Commission minutes.
- b) Debt should be recorded in the commissions records.
- c) Taxes levied to service the debt should be adequate.
- d) Proper attention should be paid to the provisions of the indentures and agreements (uses of proceeds, including any restrictions, etc.).
- e) Principal balance of outstanding long term debt should be reconciled to debt payments at the balance sheet date.
- f) Prior to issuance of general obligation debt, the County should calculate the "Constitutional Debt Limit" to ensure that the County does not exceed said limit.

(6) Payroll/Personnel

- a) Personnel files should be maintained on each employee. These files should contain: Employee application, date of employment, pay rate and changes in pay rate and position, payroll deductions, W-4 Form, etc.
- b) Time sheets should be approved by a department head.
- c) Preparation of payroll should be independent of other payroll duties (i.e., time keeping, distribution of checks or other payroll data).
- d) Preparation of payroll should include the following: Recalculating time card/attendance record computations; review of time card records for specific overtime approval; check of overtime hours, rates and computations; and a review of time records for unapproved alterations.
- e) Payroll preparations should be segregated from general ledger preparation.
- f) Applications should be required for new employees.
- g) Payroll should be approved by someone independent of payroll preparation.
- h) Checks should contain detail of gross pay and deductions.
- i) Total W-2 Wages should be reconciled to the general ledger and payroll register wages paid.
- j) A record should be maintained for all unclaimed wages by someone independent of payroll functions.

COMPUTER (ED) BACKUP PROCEDURES, PROGRAM BACKUPS, DATA BACKUPS

Although there are varying means of backing up computer data, the following is the recommended policy in today's increasing computer reliance.

- (1) Computer systems should provide for on system mirror backup of all data. This insures that when a storage unit does fail (and it eventually will) that the system will be able to continue operation and data will not be lost. The defective disk drive(s) may be scheduled for replacement as soon as possible but operations may be continued.

The above is the preferred method of first line backup.

An alternate method to mirror is referred to by many manufacturers as checksum. Although it is not as efficient and the ability to continue operations is not available, it is an alternative method to prevent data loss due to a system disk failure.

- (2) A complete system back up to tape or appropriate media is recommended daily.
 - a) The first alternate would be to backup only changed data. An accurate historical backup control is a requirement if you should elect to backup only changed data.
 - b) Other data recovery procedures such as journaling or historical transaction logging may be useful in some environments but for most county operations is too cumbersome and recovery time is prohibitive.

IMPORTANT: Don't be lulled or told that daily or documented backup is being done. Make sure and require proof. Remember, the computer storage system will eventually fail and the data you restart with is only as good as your last backup.

BACKUP PROCEDURES FOR PC, NETWORKS, ETC.

Similar procedures should be applied as the aforementioned on the main system. Regrettably as far as data backup is concerned, more and more users are moving the processing and data initial storage of important data to the desktop, i.e., PC. Most users just don't adequately backup their data.

The preferable Network will incorporate a central serve or main processor that will daily poll all PC's and save the data to a central storage. However, most users presently are not networked for this configuration.

You should set some requirements or policies for all desktop PC type systems concerning system backup. The disk storage units on PC's are not even close to being as reliable as main server type units and they will fail, more often than you might expect.

Check with your computer department and determine its capabilities. Call the manufacturer representative and discuss this with them. All reputable providers have competent staff to discuss and address this area.

SINGLE AUDIT ACT

The Single Audit Act Amendments of 1996 established requirements for audits of financial statements of State & Local Governments and Non-Profit Organizations, and for testing and reporting on internal controls and compliance with laws and regulations relevant to federal financial assistance programs.

The goals of the Single Audit Act are to:

- Improve State & Local Governments and Non-Profit Organizations' management of federal financial assistance programs.
- Establish uniform requirements for audits of federal financial assistance provided to State & Local governments.
- Promote efficient and effective use of audit resources.
- Ensure that Federal departments and agencies - to the maximum extent practicable - rely on and use audit work performed pursuant to the Single Audit Act.

According to the Single Audit Act Amendments of 1996 (June 23, 2003), each non-Federal entity that expends a total amount of Federal awards equal to or in excess of \$500,000.00 in any fiscal year shall have either a Single Audit or a program-specific audit made for such fiscal year. If this amount includes more than one program, then a Single Audit shall be performed. Any nonfederal entity that expends less than \$500,000.00 in Federal awards shall be exempt from the requirements of the Single Audit Act (Note: This does not exempt the entity from complying with Federal statutes or regulations that require the maintenance of financial records).

The Single Audit Amendments of 1996 requires the auditor to use a risk-based approach in determining major programs. Using the risk-based approach, the auditor is required to identify federal programs as either Type A or Type B programs. A "Type A" program, for most Alabama counties, will be federal awards expended that are \$300,000.00 or three percent (.03) of total awards expended. "Type B" programs, for most Alabama counties, are federal awards expended that are \$100,000.00 or three-tenths of one percent (.003) of federal awards expended.

The Examiner will determine based on prior experience with the auditee, oversight by federal agencies and pass-through entities, and the inherent risk of the programs which of the Type A and Type B programs are considered to be high or low risk. The results of the Examiner's risk assessment process will determine which of the federal programs will be audited as major programs. The auditor will audit as major programs federal programs with federal awards expended that, in the aggregate, encompass at least 50 percent of the total federal expended (percentage of coverage rule). If, however, the Commission is considered a low-risk auditee, the Examiner will audit as major programs federal programs with federal awards expended that, in the aggregate, encompass at least 25 percent of total federal awards expended.

For major programs, the auditor should perform test of controls to evaluate the effectiveness of the design and operation of internal control policies and procedures that are considered to be relevant to preventing or detecting material noncompliance with the fourteen types of compliance requirements identified in the *Compliance Supplement for Single Audits of State, Local Governments and Non-Profit Organizations*.

FOURTEEN TYPES OF COMPLIANCE REQUIREMENTS

The fourteen types of compliance requirements are concerned with the requirements of a given program. The following is a listing of the fourteen types of compliance requirements:

- a) Activities Allowed or Unallowed: The goods or services entities may purchase with federal financial assistance.
- b) Allowable Costs/Cost Principles: OMB Circular A-87, *Cost Principles for State and Local Governments*, establishes principles and standards for determining costs applicable to grants. Costs are allowable for federal reimbursement only to the extent of the benefits received by the federal programs.
- c) Cash Management: Grantee financial management systems should include procedures to minimize the time elapsed between the transfer of federal funds from the U. S. Treasury and the disbursement of funds by the grantee for advance grants.
- d) Davis-Bacon: When required by applicable legislation, construction programs are required to follow the provisions of this act, which, require that the wages of laborers and mechanics employed by contractors of federally funded projects to be no lower than the prevailing regional wage rate as established by the Department of Labor (DOL).
- e) Eligibility: The characteristics of individuals or groups to whom entities may give federal financial assistance.
- f) Equipment and real property management: Appropriate record should be kept and equipment should be maintained and the proper disposal procedures should be followed for equipment and real property acquired under federal awards.
- g) Matching, Level of Effort, Earmarking: The amount entities should contribute from their own resources toward projects for which federal financial assistance is provided.
- h) Period of availability of federal funds: Federal Awards should be obligated and spent within the time period specified by the grant award.
- i) Procurement and suspension and debarment: Grantee should follow the procurement procedures specified by federal regulations.
- j) Program income: Records should be maintained of income generated under a federal program and the proceeds should be used in accordance with the requirements of the program in accordance with the A-102 Common Rule.
- k) Real property acquisition and relocation assistance: Some federal grants may require the acquisition of property by a public agency, which may cause displacement of households and businesses. Grant recipients acquiring property in the administration of federal aid are required to carry out certain actions (appraising property in the presence of owner, review appraisals, set price, and negotiate settlements). When displacements (relocations) are involved, the recipient should provide assistance to assure that replacement housing meets acceptable standards and maintain records of all acquisitions and displacements.
- l) Reporting: The reports that entities must file to comply with federal grant requirements.
- m) Subrecipient monitoring: insures subrecipients of federal financial are monitored for compliance with laws and regulations.
- n) Special tests and provisions: The Commission should follow any other provisions for which a federal agency has determined noncompliance materially affect the federal program.

The source of the “Fourteen Types of Compliance Requirements” is the A-133 Compliance Supplement issued by the OMB to assist auditors in performing Single Audits.

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SECTION 8

COMPENSATION FOR COUNTY OFFICIALS

COMPENSATION OF COUNTY OFFICIALS

The general law regarding compensation to be paid to local county officials is addressed in *Code of Alabama 1975, § 11-2A-1 et seq.*, which went into effect on October 1, 2000. This chapter of the Code (commonly referred to as the Omnibus Pay Act) applies to county commissioners, sheriffs, tax officials, and probate judges. The provisions of this chapter do *not* apply to the coroner, constable, or any county official created by local law.

The Omnibus Pay Act provided some initial increases for most local county officials. See *Code of Alabama 1975, § 11-2A-2*. However, it also provided a process for county officials to receive future increases in compensation. The rules for obtaining increases in compensation are somewhat complicated and this will serve only as a general overview of the law. Additionally, counties may have local laws which impact the application of these Code provisions in a particular county.

Prior to passage of the Omnibus Pay Act, county commissioners compensation was paid pursuant to *Code of Alabama 1975, § 11-3-4.1*. Under this provision, the minimum compensation paid to a “part-time” commissioner was \$14,600 and a “part-time chair” was paid \$18,600. “Full-time” commissioners were paid \$25,000 and “full-time” chairs were paid \$30,000. This Code provision still has some application since, as discussed below, the initial increases granted under the Omnibus Pay Act were based upon these minimum compensation amounts. Additionally, this Code section defines “compensation” for county commissioners as:

All salary, expense allowance, or any other compensation received for serving as commissioner or chair of the county commission, but shall not include any reimbursement for mileage traveled or actual necessary expenses incurred which are otherwise payable by law.

Code of Alabama 1975, § 11-3-4.1(f) states that this Code must be read together with the Omnibus Pay Act, and that it applies only for the purpose of calculating the minimum compensation to be paid to a county commissioner under the Omnibus Pay Act.

Initial Increases

As noted above, *Code of Alabama 1975, § 11-2A-2* provided some initial increases to most county officials under the Omnibus Pay Act. Under that section, compensation for all sheriffs in the state was increased to a minimum of \$50,000 beginning October 1, 2000. (Minimum compensation for sheriffs was previously \$35,000 under *Code of Alabama 1975, § 36-22-16*.) County commissioners and probate judges received percentage increases from the minimum compensation set out in the law based upon population brackets set out in *Code of Alabama 1975, § 11-2A-1*.

As noted above, the minimum compensation for county commissioners prior to the increases granted under the Omnibus Pay Act is found in *Code of Alabama 1975, § 11-3-4.1*. The minimum compensation for probate judges prior to these increases is found in *Code of Alabama 1975, § 12-13-20*.

Tax officials did not receive a specific initial increase under the Act, but each county commission was authorized to grant an expense allowance of up to \$10,000 to the tax officials in the county. Code of Alabama 1975, § 11-2A-2(3). In counties where these increases were granted, the tax officials were ineligible for the increases discussed below until the beginning of the next term of office. This limitation is most likely moot now, except in any county where the county commission has not, as yet, granted the initial expense allowance to tax officials.

Code of Alabama 1975, § 11-2A-6 placed some limitation on county officials' eligibility for the initial increases. Any official receiving compensation on September 30, 2000 in excess of the minimum compensation prescribed by law prior to the effective date of the Act (October 1, 2000) plus the increases granted in § 11-2A-2 was not entitled to the initial increases granted under § 11-2A-2. There is a similar limitation on future increases discussed below.

In addition to the initial increases set out in Code of Alabama 1975, § 11-2A-1, full-time county commission chairpersons in counties with a population of 200,000 or less received an additional \$5,000, beginning October 1, 2000, and any probate judge in a county of 200,000 or less serving as county commission chair received an additional \$2,500. See, Code of Alabama 1975, § 11-2A-3. Additionally, *Section 11-2A-3* provided that any official operating a one-stop tag program would receive any increase necessary to ensure that he or she received \$3,000 for the administration of that program.

Every county should have a detailed record showing what the initial increases were for each county official, and all subsequent increases granted under the Act. As will be discussed below, these records are important for the purposes of determining future increases to which current and future officials are entitled.

Increases in Compensation

Under Code of Alabama 1975, § 11-2A-4, effective on October 1, 2001, officials covered by the Omnibus Pay Act are entitled to certain increases granted to county employees under the following specific circumstances.

Officials are entitled to the same **uniform** increases in compensation that are granted to county employees **at the time of approval of the county budget**. The Act specifically provides that increases for county officials only apply where increases are granted at the time of adoption of the annual budget. If the county commission approves raises at any other time in the year, the county officials do **not** receive any increase. It is also important to note that the county commission does not have any discretion regarding granting these increases. If the county commission grants uniform increases at the time of adoption of the county budget, the county officials covered under the Act **shall** receive the same increases.

The Act specifically provides that county officials are entitled to the following **uniform** increases: cost-of-living increases, longevity increases, merit raises, and bonuses. However, it is imperative that counties distinguish the increases to which county officials are entitled. County officials are **only** granted increases that are uniform or "across the board." In other words, officials receive increases that all county employees receive or are eligible for under a certain set of circumstances (such as years of service). Officials are **not** eligible for increases granted only to a certain classification of employees or increases based upon job performance.

There has been some confusion about what increases officials should receive. The Alabama Legislature adopted a resolution in 2005 aimed at clarifying the intent of the Legislature at the time the Omnibus Pay Act was enacted. (*Act No. 2005-252*) That resolution provides that it was the "clear intent of the Legislature . . . that the officials covered under the act would only be entitled to those increases that were

granted uniformly to all county employees at the time of adoption of the county budget” and that these officials “would not receive merit raises that were not uniformly granted to all employees, but were granted only to county employees based upon a job performance evaluation” or raises granted by department heads. The resolution further states that “only increases granted or approved by action of the county commission” were to apply.

Compensation for New County Officials

There has also been confusion about how to apply increases to newly-elected officials. The Office of Examiners of Public Accounts issued a memorandum following enactment of the above-referenced resolution in an effort to clarify how to determine the salary of incoming county officials. A copy of the memorandum is attached.

Basically, any cost-of-living increases granted to all county employees will “follow” the position and become part of the base salary for that office. However, if a county official receives any increases that are based strictly upon his or her service (such as a longevity increase paid to a county commissioner because he has served ten years), those increases will not be carried over to the next person to serve in that office.

Increases Treated as Expense Allowance

In order to comply with the constitutional prohibition against public officials receiving increases in compensation during a term of office (*Section 281 of Alabama’s Constitution*), all increases granted under the Omnibus Pay Act are initially treated as expense allowances. See, *Code of Alabama 1975, § 11-2A-2(5)*. However, the Act specifically provides that any increases granted under this law shall become compensation at the beginning of the next term of office.

This limitation does not apply to any officials who are authorized under Alabama’s Constitution to receive increases in compensation during a term of office. All probate judges are allowed under the Constitution to receive such increases. Additionally, a few counties have local constitutional amendments authorizing such salary increases during a term of office.

Limitations on Increases

The Omnibus Pay Act places some limitations on the ability of a county official to receive the increases provided in the Act if that official receives increases pursuant to a local law. *Code of Alabama 1975, § 11-2A-4(b)* provides that an official receiving increases pursuant to a local law shall not be entitled to any increases granted under the Omnibus Pay Act “until such time as the total compensation he or she would have received under [the Act] is equal to or exceeds the increase provided by local law.

This means that it will be necessary to keep track of any increases such official would have received under the Act following implementation of the local law increase so that, when and if the increases granted under the Omnibus Pay Act equals or exceeds what the official receives under the local law, he or she will become eligible for and receive future increases granted by the county commission at the time of adoption of the budget.

Effect on Supernumeraries and other Retirement

Code of Alabama 1975, § 11-2A-2(4) provides that supernumeraries are *not* entitled to any increases granted under the Omnibus Pay Act. However, where applicable, deductions from the increases paid to

county officials under the Act shall be made as with other compensation for applicable supernumerary or other retirement programs.

In 2006, the Alabama Legislature did pass a new law allowing for increases to be paid to tax official supernumeraries under limited circumstances. *Code of Alabama 1975, § 40-6-3* provides that beginning with the fiscal year commencing on October 1, 2006, the supernumerary tax officials of a county may receive the same cost-of-living increases in compensation granted to county retirees by the county commission, if approved by a resolution of a majority of the county commission. Under this provision, the increases shall be in the same amount or percentage and granted at the same time as increases provided to the other retirees. *Section 40-6-3* applies **only** to tax official supernumeraries. There is no comparable provision for supernumerary sheriffs.

Unlike the increases granted under the Omnibus Pay Act, the county commission has the discretion whether or not to grant these increases – and the increases are tied to increases granted to county retirees.

County Exclusions/Exemptions under the Act

The original Act provided that the provisions of the Act would not apply in several counties unless first approved by resolution of the county commission. Those counties were: Barbour, Tuscaloosa, Cullman, St. Clair, Pike, Henry, Coffee, Russell, Geneva, Dale, Fayette, and Pickens. See, *Code of Alabama 1975, § 11-2A-7(b) and (c)*. *Section 11-2A-7(d)* provides that if any of these counties adopts a resolution to come under the Act, the provisions will not apply until the beginning of the next fiscal year following passage of the resolution. Most counties have now “opted in.”

There was also a provision in the original Act allowing counties to “opt out” of the Act if they did so between June 1, 2000 and October 1, 2000. See, *Code of Alabama 1975, § 11-2A-2(7)*. Any county opting out could opt back in by resolution, but as with the counties listed above, the provisions of the Act would not apply until the next following fiscal year.

Other Exclusions under the Act

The Omnibus Pay Act excludes any official whose salary is tied to the salary of another elected official from all provisions of the Act. *Code of Alabama 1975, § 11-2A-7(a)*. For example, if the probate judge’s salary is tied to the salary of the district judge, the probate judge is not entitled to any of the increases granted under the Omnibus Pay Act.

Coroners’ Fees

Code of Alabama 1975, § 12-19-192 sets the fees for services to be paid to the coroner. He or she is not entitled to receive fees in excess of \$1200 in any one year. See, also, *Code of Alabama 1975, § 12-19-193*.

In addition to the above fees, *Code of Alabama 1975, § 12-19-93* provides that coroners are entitled to receive, for services rendered by them in civil cases, the same fees as were allowed to sheriffs for like services on December 18, 1973. Unfortunately, these fees cannot be located in the current copy of Alabama’s Code. Under *Code of Alabama 1975, § 12-19-94*, the county commission is responsible for payment of these fees upon sworn statement from the circuit clerk.

Many counties have local laws which provide a specific salary and/or expense allowances for the coroner.

Voluntary Reduction of Salary

As noted above, *Section 281 of Alabama's Constitution* prohibits the increase or reduction of a public official's salary during his or term of office. However, *Code of Alabama 1975, § 36-7-10* authorizes a public official to voluntarily diminish his or her salary, compensation, etc. Under this provision, the official must provide written acknowledgement of the desire to diminish the salary which acknowledgement must be filed in the probate office and thereafter, the official's salary shall be reduced as directed in the written acknowledgement.

When a public official diminishes his or her salary pursuant to this section, he or she must relinquish all "control" of that portion of the salary. It cannot be placed in a special account or earmarked for certain purposes at the official's direction. The money remains in the county general fund and is expended as directed by the county commission. *See, AG's Opinion # 2008-065.*

Reimbursement of Travel Expenses

In addition to compensation, under *Code of Alabama 1975, § 11-3-4*, county commissioners are entitled to reimbursement of all actual travel expenses. This includes mileage reimbursement at the rate allowed by the IRS for all travel in his or her personal vehicle in the performance of his or her duties both inside and out of the county. The commissioner must provide proper documentation for reimbursement. *Section 11-3-4* specifically provides that this reimbursement shall not be deemed salary compensation.

There are several other important Code sections addressing reimbursement of travel expenses that apply to all county officials *and* employees. *Code of Alabama 1975, § 36-7-1* states that it is unlawful for any county officer or employee to be reimbursed for expenses incurred in the performance of his or her duties unless the officer or employee presents and has approved an itemized statement of all expenses incurred. (This section does not apply to use of county credit cards.) *Code of Alabama 1975, § 36-7-2* provides that the statement must be presented to the county clerk or corresponding officer (county administrator) and approved or disallowed by the county commission at a regular meeting held within 30 days after presentment.

Regarding advancement of travel expenses, *Code of Alabama 1975, § 36-7-3* states that no sum shall be advanced unless first allowed by resolution of the county commission stating the purpose and object of the "proposed visit". When approved, an itemized statement must be presented by the officer or employee immediately upon return from the travel, and failure to have the itemized statement approved will make the officer or employee personally liable for the expenses. *See, Code of Alabama 1975, § 36-7-4.*

Code of Alabama 1975, § 36-22-16 provides that the sheriff and deputies shall be entitled to mileage and expense allowance for returning or transferring prisoners.

Payment of Training and Membership Dues

Code of Alabama 1975, § 11-1-11 provides that the county commission may pay all dues, fees, and expenses incurred by sheriffs, tax officials, circuit clerks, and other like officials for membership in and/or attendance at official functions of their state organizations. This is *not* a requirement to pay these fees, but authorization to do so. *See, also, Code of Alabama 1975, § 36-22-19* which authorizes, but does not require, the county commission to pay the sheriff's dues in state and national sheriffs' associations.

Code of Alabama 1975, § 11-1-15 authorizes county commissioners to join and participate in national and state county commission associations, and authorizes payment of necessary funds for these purposes.

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SECTION 9

AD VALOREM TAXES

INTRODUCTION

Counties have no inherent power to tax. They are “agencies of the State, created by law for the more efficient administration of government, and the authority of the county to tax is one derived from the legislature . . .” *Newton v. City of Tuscaloosa*, 251 Ala. 209, 36 So.2d 487 (1948). The Legislature has granted counties certain authority to levy and collect ad valorem taxes for county revenue purposes through Alabama’s Constitution and by statute. However, the laws on ad valorem taxation are somewhat complicated and confusing, and there are strict limitations placed on the county’s ability to impose, alter, or vary an ad valorem tax levy.

This outline details the different constitutional and statutory provisions affecting county taxation. However, some introductory statements regarding how the taxes are actually identified and calculated may be helpful to an understanding of how the laws discussed below are actually applied.

All ad valorem taxes in Alabama are assessed in “mills”, which is defined as a monetary unit equal to 1/1000 of a U.S. dollar or 1/10 of a cent. This is expressed in differing ways in the provisions which set the millage rates for the various taxes. Some examples of the terms used to express millage rates are:

- One-half of one percent of the value of taxable property (i.e., 5 mills)
- Ten cents on each one hundred dollars of taxable property (i.e., 1 mill)
- Ten mills on each one hundred dollars of taxable property (i.e., 1/10 of a mill)
- 4 mills on each dollar of taxable property in the county (i.e., 4 mills)

Once the millage rate is established, there are still several steps which must be applied to determine the actual tax on any piece of property. All taxable property is classified into one of four categories and taxed at a percentage of the fair market or current use value of the property. However, the assessment ratio varies depending on the property classification. Thus, the class must be identified before the assessment ratio is applied.

There are other matters to consider in calculating the tax, such as whether there are any exemptions that apply, and if so, to what extent the property is exempt. There are also limits to how much tax may be assessed on any piece of property. If the tax exceeds the allowable limit, adjustments to the final tax bill must be made and prorated among the different taxing authorities.

Although the following discussion is limited to county levy and collection of ad valorem taxes, there are other taxing authorities which levy a tax on property in the state. This includes the State of Alabama which levies 6½ mills on all taxable property in the state. All of these other taxes must be considered and applied when calculating the ad valorem tax, particularly with regard to exemptions, and the minimum and maximum tax allowed.

The total levy of ad valorem tax in any county will vary considerably depending on matters such as special local taxes, whether all tax levies permissible under the Constitution are, in fact, assessed, and

whether any county adjustments in assessment ratios and tax rates were made during the transitional phase of implementation of Alabama’s current assessment laws. However, there are general constitutional limits to the county’s authority to levy and collect ad valorem taxes.

The total permissible county levy, assuming all levies are set at their maximum levy and there is no local law provision altering the limits, is 24.1 mills. These limits are broken down as follows:

General county levy	5 mills
Roads, bridges, and buildings	2½ mills
School Taxes	
– One mill county tax	1 mill
– Three mill county/district tax	3 mills
– School district tax	3 mills
– Additional tax for education	5 mills
Hospital/Public Health	
– County Hospital	1/10 mill
– Hospital/Public Health Facilities	4 mills
Library Tax	½ mill
<hr/>	
TOTAL	24.1 mils

The following is a general overview of the constitutional and statutory authority and procedures for county ad valorem taxation. It is not intended as a comprehensive discussion of ad valorem taxes in Alabama, but as a guide for counties to use in identifying and determining what authority they have to levy and collect such taxes at the local level and what procedures they must follow to impose, alter, or amend the levies available to generate revenue to meet the counties’ needs.

GENERAL STATUTORY AUTHORITY FOR LEVYING AD VALOREM TAXES

The general statute on taxation in the State of Alabama is found in *Title 40 of the Code of Alabama*. However, there are other Code sections which address certain taxation issues of relevance to the counties. In particular, *Title 11 of the Code of Alabama*, which is the general statute governing counties in Alabama, includes several sections involving ad valorem taxes, and the counties' authority with regard to same.

Code of Alabama 1975, § 11-3-11(2) provides that the county commission has the authority "to levy a general tax, for general county purposes and a special tax, for special purposes." *Code of Alabama 1975*, § 40-7-42 requires that, at its first regular meeting in February in each year, the county commission "shall levy the amount of general taxes required for the expenses of the county for the current year, not to exceed one half of one percent of the value of the taxable property as assessed for revenue for the state" (5 mills) and "at the same time levying the amount of special taxes required for the county for the current year, which levy shall be made upon the same basis of valuation" The section further states that, when the levy is made, the commission "shall certify the rate or rates of taxation and the purpose or purposes for which the tax is levied to the tax assessor of the county."

These Code sections derive from *Article XI, Section 215 of the Constitution of Alabama of 1901*, the original constitutional provision addressing the levy of an ad valorem tax by the different counties in the state. That section, which has been revised by *Amendment No. 208*, provides that no county is authorized to levy a greater rate of taxation in any year than one-half of one percent (5 mills). The Amendment also provides for special taxes "to pay any debt or liability now existing against any county, incurred for the erection, construction, or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges, or roads". This levy, which will be discussed in more detail below, shall not exceed one-fourth of one percent (2½ mills). The proceeds of special taxes for buildings, roads, and bridges in excess of amounts payable on bonds, warrants, or other securities issued by the county may also be spent for general county purposes as determined by the county commission.

In essence, Section 215 and Amendment No. 208 establish constitutional limits to the amount of taxes which the county may levy and collect in any given tax year. There are other constitutional provisions authorizing further taxation for special purposes. Additionally, these limits may be altered under certain circumstances discussed below. However, absent proper action by the Legislature and a county referendum, these constitutional provisions restrict the county's authority to levy and collect revenues to accomplish the functions of the governing bodies of the counties in the state.

SPECIAL AD VALOREM TAXES

In addition to the general and special taxes, the Constitution and Alabama's Code also provide for the county to levy and collect special taxes for particular purposes under certain circumstances, such as for public buildings or education.

Education Taxes

One Mill Tax

Section 260 and Section 269 of Alabama's Constitution, as amended by Amendment No. 111, authorize counties to levy and collect a special tax for education in a manner authorized by the Legislature. This provision requires that the tax not exceed 10¢ on each \$100 of taxable property (1 mill) and that the rate of tax, the time it is to continue, and its purpose be first submitted to a vote of qualified electors in the county. There must be a three-fifths majority vote for the special education tax authorized by these sections. Furthermore, *Amendment No. 111* provides that the rate of the special school tax shall not increase the rate of taxation, state and county combined, to more than \$1.25 on each \$100 of taxable property, excluding all special county taxes for public buildings, roads, bridges, and payment of debts existing at ratification of the 1875 Constitution.

Code of Alabama 1975, § 16-13-160 et seq. governs the one-mill county school tax authorized by Section 269 and Amendment No. 111.

Section 16-13-160 provides that, upon a petition signed by 200 or more qualified electors to the county commission, the commission shall order an election to determine whether the special tax shall be levied. *Code of Alabama 1975, § 16-13-161 through § 16-13-164* set out the procedures for the election.

Code of Alabama 1975, § 16-13-165 provides that the tax shall be levied if three-fifths of voters approve the proposed tax. The tax cannot exceed one mill, and the rate cannot increase the rate of taxation to more than \$1.25 on each \$100 of taxable property, excluding all special county taxes for public buildings, roads, bridges, and the payment of debts existing at ratification of the 1875 Constitution.

Three Mill County and District Tax

Constitutional Amendment No. 3 authorizes a 3 mill special county school tax in addition to any other taxes now or hereafter authorized, including the tax sanctioned by *Section 269 and Amendment No. 111*. This Amendment also allows for a special district tax not to exceed 3 mills of taxable property in the district. However, no district tax can be voted or collected except in counties already levying and collecting the 3 mill special county school tax under *Amendment No. 3*.

Code of Alabama 1975, § 16-13-180 et seq. addresses the county and district 3 mill tax sanctioned by *Amendment No. 3*. As with the 1 mill tax, an election must be called upon petition signed by 200 or more qualified voters. Additionally, a 3 mill tax vote for any school tax district may be required upon request by the county or city board of education which controls the school tax district.

Code of Alabama 1975 § 16-13-183 through § 16-13-190 outline the procedures for calling and conducting the elections. Pursuant to *Code of Alabama 1975, § 16-13-188*, if approved by the voters, the county commission shall levy the tax, which shall not exceed 30¢ on each \$100 worth of taxable property in the county or school tax district (3 mills). The tax levy cannot be for a term shorter than two years.

Code of Alabama 1975, § 16-13-182 contains the constitutional prohibition against a special school district tax unless the county in which the tax district is located is also levying and collecting the special county school tax. Furthermore, Code of Alabama 1975, § 16-13-198 provides that the funds from the levy of a special tax in any school tax district shall be used for the exclusive benefit of the public schools in the district, although if there is no public school in the district where the tax is being levied, the funds may be used for transporting school children residing in the district to a school in another district.

School District Tax

Amendment No. 382 of the Constitution of Alabama of 1901 authorizes the several school districts to levy and collect an additional special district school tax in such district for public school purposes. A school district shall include incorporated cities or town, or any other school districts which may be approved by the county board of education. The tax authorized by this provision cannot exceed 30¢ on each \$100 worth of taxable property in the district (3 mills). Furthermore, as with other school taxes, this tax, including its rate, length of time, and purpose, must be submitted to the vote of qualified electors, and approved by a simple majority of those voting on the tax.

Additional Property Tax for Educational Purposes

There is one other constitutional provision authorizing county taxation for educational purposes. However, there is no Code section specifically addressing this tax.

Amendment 202 of the Constitution grants the governing body of the county the power to levy and collect a special county tax not to exceed 50¢ on each \$100 of taxable property in the county (5 mills). This tax is in addition to all other taxes now or hereafter authorized by the Constitution and laws of Alabama, and is earmarked for educational purposes. Again, the tax, its purpose, and its time frame must be approved by voters, and the election shall be conducted in the manner provided for in *Amendment 3*. However, the Amendment specifically provides that if the proposal to levy the tax is defeated in any election, subsequent elections may be held at any time.

School Tax Elections

Code of Alabama 1975, § 16-13-108(a) authorizes school tax elections for several purposes. *Section 16-13-108(b)* prohibits an election which would vote for a tax for a period of more than 30 years. However, the attorney general's office has stated that a special school tax may be reenacted and extended for a period of time not in excess of 30 years. *AG's Opinion # 91-359*.

Library Taxes

Amendment No. 269 of the Constitution of Alabama of 1901 authorizes counties to levy and collect a special tax for the support of a public library. The tax cannot exceed ½ mill on the value of taxable property in the county, and as with special school taxes, the rate, time period, and purpose must be put to a vote of the people. A simple majority is sufficient for the levy of the tax. The election shall be called, held, and conducted in the same manner as elections on special school district tax levies. There is no general statute in the Code addressing library taxes.

Hospitals and Public Health Purposes

Other special ad valorem taxes addressed by the Alabama Constitution and the Code are taxes for hospitals and public health purposes. See, *Amendment No. 59, Amendment No. 72, and Amendment No. 76*.

County Hospital Tax

Amendment No. 59 allows a tax levy of not more than 1/10 of a mill for a county hospital, except in Mobile and Montgomery counties. The section provides that an election on the tax may be called by the governing body at any time and must be called when a petition of not less than 100 voters is filed with the county commission. The county must levy and collect the tax if voted for in the election.

Amendment No. 59 restricts the use of the proceeds from this tax to the purchase, lease, construction, equipment, maintenance, and operation of a county hospital. It further provides that the proceeds from the tax shall be expended under the direction, supervision, and control of the county commission.

Public Hospital/Public Health Facilities Tax

Amendment No. 72, which applies to all counties except Mobile, Montgomery, and Jefferson, also requires the county to levy and collect a special ad valorem tax for hospital and public health purposes, if authorized by an election. The Supreme Court of Alabama held that the levy is mandatory if voted by the electorate and shall continue so long as the needs for such health facilities and hospitalization exist and are maintained by the county. *In Re Opinion of the Justices*, 252 Ala. 194, 41 So.2d 559(1949). The Attorney General's office has held that the tax must be continued so long as there is a need for the health facilities and hospitals maintained by the county, but that when the need is adequately met by private operation of such facilities, the tax may be discontinued. See, *AG's Opinion # 88-42*.

Under *Amendment No. 72*, an election may be called by the governing body at any time and must be called within three months of a petition signed by 5% of qualified voters. The election shall be conducted as the county commission prescribes. The tax authorized by *Amendment No. 72* cannot exceed 4 mills on each dollar of taxable property in the county. Furthermore, it must be used solely for acquiring, constructing, operating, equipping, or maintaining county hospitals, or other public hospitals, non-profit hospitals and public health facilities.

Amendment No. 76 provides further for a special tax for public hospital purposes. It defines "public hospital purposes" as those set out above and defines "public health facilities" to include "public hospitals, public clinics, public health centers, nurses' homes and training facilities, and related public health facilities of any kind." In addition, *Amendment No. 76* authorizes the county to anticipate the proceeds from a tax voted for public hospital purposes without further election and to establish a public corporation as the agency to operate public health facilities, which corporation may be paid the proceeds of the tax for use by it for any of the purposes for which the tax was voted.

There are several statutes addressing public hospitals and county hospital boards and corporations. For example, *Code of Alabama 1975*, § 22-21-102 provides that when a hospital corporation has been designated as the agency to oversee public hospital facilities in the county or a portion thereof, the proceeds from any special tax voted in the county or in the area of the county for which the corporation has been designated shall be paid over to the hospital corporation. The attorney general has ruled that this Code section requires the tax collector to remit the proceeds from this tax directly to the hospital corporation. See, *AG's Opinion # 86-323*. In other words, these proceeds are never paid into a county general or special fund.

The attorney general has held that a landfill and its equipment are public health facilities, and that a county could appropriate monies out of an *Amendment No. 72* tax surplus to fund its expenditures for same. See, *AG's Opinion # 93-173*. That office has also ruled that the county commission has the authority to distribute proceeds from the tax authorized by *Amendment No. 72* among the public hospitals and the county health department located within the county. See, *AG's Opinion # 96-160*.

The Supreme Court of Alabama has held that proceeds from the taxes authorized by *Amendments No. 72 and No. 76* could not be used to pay the cost of indigent care. *In re Opinion of Justices*, 266 Ala. 218, 95 So.2d 923 (1957). However, *Amendment No. 125*, enacted after to this case was decided, provides that the Legislature may authorize the use of any portion of the proceeds from any special tax levied for public hospital purposes for the purpose of providing hospital care and treatment for indigents or for matching any state or federal funds available for same, except any portion pledged to the payment of bonds, notes, etc.

Code of Alabama 1975, § 22-21-223 provides that, where a special county tax is levied and collected for public hospital purposes, the county commission can appropriate necessary proceeds of the tax for carrying out the purposes of the Act, provided it not use proceeds pledged for bonds, warrants, notes, or other obligations or indebtedness. The attorney general has ruled that this allows for the payment of indigent care from surplus hospital tax funds. *AG's Opinion # 84-389*. Moreover, that office held that the county is authorized under § 22-21-223 to use surplus hospital tax funds to meet requirements of the Alabama Health Care Responsibility Act.

Health Officer/Health Department Tax

Code of Alabama 1975, § 22-3-10 authorizes the county commission to levy annually a special county tax in an amount sufficient to establish and maintain a full-time county health officer and county health department and for the prosecution of public health work within the county. However, this tax is part of the general county 5 mill tax, and does not increase the constitutional limitation on the amount of property taxes which a county may levy. See, *AG's Opinion # 81-392*. Additionally, no additional tax can be levied under § 22-3-10 if the county is already levying and collecting a general county tax in the amount of 5 mills.

Public Buildings, Roads, and Bridges

As mentioned above, *Amendment No. 208* authorizes a special ad valorem tax not to exceed 2½ mills to pay any debt or liability for the erection, construction, or maintenance of necessary public buildings, bridges, or roads, and provides that the proceeds of such taxes in excess of amounts payable on bonds, warrants, or other securities issued by the county may be spent for general county purposes as determined by the county commission. See, also, **Code of Alabama 1975**, §§ 11-14-11, 11-14-16, and 11-14-17. The Supreme Court of Alabama has held that this constitutional provision and these Code sections only authorize the imposition of ad valorem taxes. *Ex parte Coffee County Commission*, 583 So.2d 985 (Ala. 1991).

Section 11-14-11 authorizes the county to levy and collect special taxes for the erection, repairing, furnishing, or maintenance of public buildings, bridges, or roads, but the tax cannot exceed 2½ mills. The proceeds of the special tax in excess of amounts payable on bonds, warrants or other securities may be spent for general county purposes.

Section 11-14-16 contains similar language. However, proceeds of taxes levied under this section shall be applied exclusively for the purposes for which the tax was levied and collected.

Jail Tax

Code of Alabama 1975, § 11-14-14 requires the county commission to levy a county tax for the erection of a jail if there is not a sufficient jail in its county. *Section 11-14-15* states that if the county commission fails to levy the above-referenced tax when necessary, the commissioners are each guilty of a misdemeanor, punishable by fine of not less than \$50.00. However, the section further provides that any

member of the commission may exonerate himself or herself from the fine by proving that he or she was in favor of the levy, but was overruled by his or her colleagues.

In *Ex parte Coffee County Commission*, the Alabama Supreme Court held that the statutes governing county authority to levy taxes for jails limited that authority to the imposition of an ad valorem tax, and did not permit the county to levy a sales tax in the absence of special legislation or an enabling act. *See, also, A G's Opinion #82-120*. Furthermore, the Attorney General has stated that the county commission is authorized to levy a "jail tax" if it does not currently levy a tax under § 11-14-10 through § 11-14-17. And the levy for jail purposes cannot exceed the constitutional limit for ad valorem taxes. *See, e.g., AG's Opinion ## 95-302, 88-276, and 82-120*.

CLASSIFICATION OF TAXABLE PROPERTY AND ADJUSTMENTS TO AD VALOREM TAX ASSESSMENT RATIOS AND RATES

Amendment No. 373, which substantially rewrote *Section 217 of the Constitution*, is probably the most important provision regarding ad valorem taxation for county purposes. This section and *Code of Alabama 1975, § 40-8-1 et seq.* (known as “The Lid Bill”), were enacted to correct an inequality in assessment of taxable property in Alabama. They set out the procedures for levying the general ad valorem tax and for establishing or altering tax assessment ratios and tax rates. The law is applicable to taxes assessed and collected after October 1, 1979.

Adjustments in Tax Rates

Section (f) of Amendment No. 373 provides that counties and other taxing authorities may increase tax rates above the constitutional limit if the proposed increase has been:

1. Proposed by the governing body after public hearing,
2. Then approved by an act of the Legislature, and
3. Subsequently approved by a majority of voters

In addition, *Section (e) of Amendment 373* authorizes the local governing body or taxing authority to decrease an ad valorem tax rate at any time, provided the decrease does not jeopardize the payment of any bonded indebtedness secured by such tax.

Any action under these sections shall be made by resolution of the governing body.

Decreasing Tax Rates

The attorney general’s office has issued several rulings on the county’s authority to decrease tax rates. In *AG’s Opinion # 82-354*, that office held that the county could decrease the millage rate at any time during the year, although the adjustment should be made early enough to allow the tax assessor to compute the resulting taxes. That opinion also held that *§ 40-7-42*, which requires the county commission to levy its taxes at a meeting in February, clearly envisions the ability to adjust the millage rate, by raising or lowering the rate. In *AG’s Opinion # 82-0427*, the attorney general issued the same ruling, but cautioned that the rate cannot be raised above the Constitutional limit without applying *Amendment 373, Section (f)*.

When Adjustments Take Effect

A new tax enacted for a county cannot take effect until the tax year following its approval. See, *AG’s Opinion # 90-393*. In other words, a tax which is not approved and effective until June 1990 cannot be levied by the county commission until the 1991 tax year beginning in October 1990.

Classification and Assessment Ratios

Sections (a), (b), and (c) of Amendment No. 373 provide that all taxable property in the state which is not exempt by law shall be divided into classes for ad valorem taxation purposes and forever be taxed at the same rate. These sections establish the classes and assessment ratios for each class. See also, *Code of Alabama 1975, § 40-8-1*, which states that all taxable property shall be divided into one of these classes

and except as otherwise provided, all property shall be assessed for ad valorem tax purposes at the statutory ratios “of assessed value to the fair and reasonable market value of such property”. *See also, Code of Alabama 1975, § 40-7-15.*

- Assessed value is, in essence, the percentage or fraction of property’s total appraised value against which the rate of taxation is applied.
- *Code of Alabama 1975, § 40-1-1(12)* defines value as, “Fair and reasonable market value of the taxable property, estimated at the price which the property would bring at a fair voluntary sale.”

Definitions of the different types of property are set out in *Code of Alabama 1975, § 40-8-1(b)*. The classes outlined in both the Constitution and the Code are as follows:

- Class I All property of utilities used in the business of such utilities
- Class II All property not otherwise classified
- Class III All agricultural, forest, and residential property and historic buildings and sites
- Class IV All private passenger automobiles and pickup trucks owned and operated by an individual for personal or private use and not for hire, rent, or compensation

The assessment ratios for each class of property are:

- Class I 30% of the assessed value to the fair market value of such property
- Class II 20% of the assessed value to the fair market value of such property
- Class III 10% of the assessed value to the fair market value of such property or current use value
- Class IV 15% of the assessed value to the fair market value of such property

A county cannot increase the tax rate on certain types of property only (i.e., only residential structures.) *See, Opinion of the Justices, 469 So.2d 110, 111-112 (Ala. 1985); AG’s Opinion #. 90-393.*

Section (i) of Amendment 373 provides that, except as otherwise provided in the Constitution, the total amount of ad valorem taxes payable to the state and to all counties, municipalities, and other taxing authorities shall never exceed the following in any one tax year:

1. 2% of the fair market value of Class I property
2. 1½% of the fair market value of Class II property
3. 1% of the fair market value of Class III property, and
4. 1¼% of the fair market value of Class IV property

Current Use Value

“Current use value” is defined in *Code of Alabama 1975, § 40-7-25.1* as “the value of eligible taxable property based on the use being made of that property on October 1 of any taxable year; provided that no consideration shall be taken of the prospective value such property might have if it were put to some other possible use.” In essence, this provides an exception to the provisions requiring property to be assessed at fair market value for Class III property only. *See also, Section (j) of Amendment 373.*

The rules and procedures related to current use valuation of Class III property are set out in *Code of Alabama 1975 §§ 40-7-25.2 and 40-7-25.3*. The owner must make timely application with the tax assessor between October 1 and January 1, and if granted, the property owner is not required to reapply for subsequent tax years. However, following sale or disposition of the property, the new owner must apply for current use valuation, if desired, or the assessment will be based on fair market value.

Code of Alabama 1975 § 40-7-25.3 requires that when property qualified for current use valuation is converted to a use not so qualified, the property must be appraised at its fair market value. This section also requires the owner of property to notify the tax assessor when property has been converted to a use not qualified for current use value assessment between October 1 and January 1 in the taxable year next succeeding the taxable year in which such conversion is made.

Adjustments in Assessment Ratios

In addition to authorizing adjustments to tax rates, *Amendment No. 373 (and Code of Alabama 1975, § 40-8-4)* also outline the procedures to increase or decrease assessment ratios of county levies. *Amendment No. 373, Section (c)* provides that the county governing body or other taxing authority (except the state) may increase or decrease the assessment ratio applicable to any class of taxable property, provided the proposed adjustment shall have been:

1. Proposed by the governing body after a public hearing on the proposal,
2. Thereafter approved by an act of the Legislature, and
3. Subsequently approved by a majority of residents voting at a special election called and held pursuant to the law on special elections

As in the case of adjustments in tax rates, *Amendment No. 373, Section (c)* provides that any such action shall be taken by resolution of the governing body of the county in which such taxing authority is located acting on behalf of such taxing authority. Additionally, *Amendment No. 373* provides the following limitations on adjustments:

4. Cannot jeopardize the payment of any bonded indebtedness secured by any tax levied by the taxing authority decreasing the assessment ratio.
5. Assessment ratios may vary among taxing authorities so long as each assessment ratio is uniform within a taxing authority.
6. No class of taxable property shall have an assessment ratio of less than 5% nor more than 35%

The Legislature has established criteria for adjustment of tax assessment ratios. See, *Code of Alabama 1975*, § 40-8-4.

7. If, *on any October 1*, the total assessed value of all property in one class constitutes more than 50% of the assessed value of all taxable property in the county, the assessment ratio with respect to that class may be *decreased* up to a 5% differential from the statutory rate.
8. If, *on any October 1*, the total assessed value of all property in one class constitutes less than 20% of the assessed valuation of all taxable property in the county, the assessment ratio with respect to that class may be *increased* up to a maximum of 5% differential from the statutory rate.
9. If, *on any October 1*, the total assessed value of all property in one class constitutes more than 75% of the assessed valuation of all taxable property in the county, the assessment ratio with respect to that class of property may be *decreased* up to 5% and each assessment ratio in any other class may be *increased* up to 5%.

EXEMPTIONS FROM AD VALOREM TAXATION

General Exemptions

There are several constitutional and statutory exemptions from ad valorem taxation found in Alabama law.

Article IV, § 91 of the Constitution of Alabama of 1901 provides that the Legislature shall not tax the real or personal property of the state, county, municipal corporations, or cemeteries, nor lots used exclusively for religious purposes, for schools, or for purely charitable purposes. *See, also, Amendment No. 325 and Code of Alabama 1975, § 40-8-1(d).*

In addition to the above exemptions, *Code of Alabama 1975, § 40-8-1(d)* also exempts the property of Masonic lodges, Knights of Columbus homes, and union halls when used exclusively for the purposes and business of such organizations.

Section (j) of Amendment No. 373 also provides an exemption from the properties listed above. In addition, it exempts household and kitchen furniture, all farm tractors, all farming implements when used exclusively in connection with agricultural property, and all stocks of goods, wares, and merchandise.

Other exemptions from ad valorem taxation are found in *Code of Alabama 1975, § 40-9-1 et seq.*

Homestead Exemptions

“Homestead exemption” is defined in *Article X, § 205 of the Constitution of Alabama of 1901* as:

1. The dwelling and appurtenances of property not in any city, town, or village, but not in excess of 80 acres as selected by the owner, or
2. Any lot in a city, town or village with the dwelling and appurtenances owned and occupied by a resident of the state, but not to exceed \$2000.

This Constitutional provision does not speak specifically to exempting the homestead from ad valorem taxation. However, *Code of Alabama 1975, § 40-9-19* addresses both state and local homestead exemptions.

State Tax Exemption

Code of Alabama 1975, § 40-9-19(a) provides that homesteads are exempt from state ad valorem taxes to the following extent:

1. Not to exceed \$4000 in assessed value or 160 acres for residents (head of household) under age 65
2. All state ad valorem taxes for residents over the age of 65, those retired due to permanent and total disability, or those who are blind according to *Code of Alabama 1975, § 1-1-3*

There is no income limitation for claiming a homestead exemption based on these factors. However, the burden is on the persons claiming the exemption to prove they are entitled to it.

County Tax Exemption

There are also several general statutory provisions establishing homestead exemptions from county taxation. These are found in *Code of Alabama 1975, § 40-9-19*.

Persons Under Age 65

Code of Alabama 1975, § 40-9-19(b) provides a statutory homestead exemption from all ad valorem taxes levied by the county, except countywide and school district taxes levied for school purposes for residents under age 65. This exemption also applies only to the head of household, but the statutory limits are \$2000 in assessed value and 160 acres in area.

Old Age or Disability

There are also special county statutory homestead exemptions for persons over age 65 or disabled. *Code of Alabama 1975, § 40-9-19(d)* grants an exemption not to exceed \$5000 nor 160 acres to the following persons:

1. Those over age 65 with an annual adjusted gross income of less than \$12,000,
2. Those retired due to permanent and total disability, or
3. Those who are legally blind.

With respect to homesteads situated in more than one county, the exemption must be prorated between the counties in the proportion that the area of the homestead in each county bears to the total area of the homestead claimed for exemption.

Exemption by County Option

Code of Alabama 1975, § 40-9-19(c) authorizes the county governing body or other local taxing authority to grant a further exemption from any levy on homesteads of residents not over 65 years of age. This exemption can apply only to the head of household and shall not exceed \$4000 in assessed value nor 160 acres in area. The homestead granted by this section may be adjusted, rescinded, or reinstated by the county commission. However, the provisions of this section cannot annul or reduce the exemptions mandated in § 40-9-19(a), (b), and (d).

Additional Homestead Exemption

Code of Alabama 1975, § 40-9-21 provides a further homestead exemption from all state and local ad valorem taxes for the principal residence and 160 adjacent acres of any person who is totally disabled or over 65 years of age and has a net annual taxable income of \$7500 or less. There is no monetary limit to the exemption.

“Principal residence” is defined as “a single-family residence owned and occupied by a person qualifying under this section”. Furthermore, proof of total disability may be, but is not limited to, written certification of total disability by any two licensed physicians.

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SECTION 10

COMPETITIVE BID AND PUBLIC WORKS LAWS

THE COMPETITIVE BID LAW

The competitive bid law as applicable to county government is found in *Code of Alabama 1975, § 41-16-50 et seq.* This outline covers the requirements of the law. And counties should keep in mind that the Supreme Court and Attorney General's Office have repeatedly held that the most important requirement of the competitive bid law is the good faith of the officials charged in executing the law.

APPLICABILITY

Pursuant to *Code of Alabama 1975, § 41-16-50(a)*, the competitive bid law applies to all purchases of goods or services in the amount of \$15,000¹. This includes each of the following:

- Labor, services, work,
- Purchase of materials, equipment, supplies, or other personal property, and
- Lease of materials, equipment, supplies, or other personal property.

Like Items

Known or contemplated "like-item" purchases must be considered together, such that any purchases of like items in a 12 month period will exceed \$15,000, ***all such purchases*** must be bid. See, e.g., *AG's Opinion # 2003-098*.

- However, when "like-item" purchases exceed \$15,000 in a year due to unforeseen circumstances, there is no violation of the bid law provided future purchases are bid once the unforeseen circumstances occur.

Public Funds

Where there is no expenditure of public funds, the bid law does ***not*** apply.

- But where funds are transferred to a governmental entity from a private source, they become public funds. See, *AG's Opinion ## 2004-223; 2000-003; and 93-038*.

Real Property

The competitive bid law does not apply to the sale or lease of real property.

¹*The threshold amount was increased to \$15,000 pursuant to Act No. 2008-379, effective Aug. 1, 2008.*

Public Works Contracts

The competitive bid law does not apply to public works contracts (i.e., contracts for the construction, renovation, or repair of roads, bridges, buildings, or other public structures), which are exclusively governed by the public works law found in Chapter 39 of the Code.

EXEMPTIONS

The competitive bidding requirements do not apply to any of the following:

- Utility services where the rates are fixed by law, regulation, or ordinance
- Election supplies
- Professional services (such as attorneys, architects, engineers, and CPAs)
 - For a good discussion of “professional services”, see *AG’s Opinion # 2002-078*
- Contracts of employment in regular civil service
- Contracts for fiscal or financial advice or services
- The purchase of insurance
- Contracts for fiscal or financial advice or services
- Purchases for products made or manufactured under the direction of the Alabama Institute for Deaf and Blind
- Purchases of maps, manuscripts, pamphlets, etc.
- Renewal of solid waste collection, recycling, and disposal contracts provided the terms are not changed and the original contract provides for renewal.
- Purchases of computer and word processing hardware when it is the only type compatible with hardware already owned by the entity
- Custom computer software.
 - The attorney general’s office defines custom software as “software that will require substantial creative work by a professional/vendor to comply with unique specifications”. *AG’s Opinion ## 94-023 and 99-245.*
 - Software is “custom” if it is built or made according to specifications of the buyer. *AG’s Opinion ## 2002-206; 99-139; 94-023; and 91-371.*
- Sole source items
- Purchases of dirt, sand, or gravel from in-county property owners in order to supply a county road or bridge project in which the materials will be used.

- Contractual services and purchases of personal property which by their very nature are impossible to award by competitive bidding.
- Purchases related to, or having an impact on, security plans or the security or safety of persons, structures, facilities, or infrastructures.
- Purchases of goods (not services) made through NACo's U.S. Communities
 - The item has been bid through a process acceptable to the Examiners Office
 - The item is not available from state bid list at a lower price
 - The item is purchased from an Alabama vendor if one is available
- Contracts for codification and publication of laws and ordinances
- Contracts for services and commodities impossible to award by bidding

Code of Alabama 1975, § 41-16-51(b) exempts certain purchases from *all* provisions of the competitive bid law. Those important to counties are as follows:

- Purchases of products where the price is already regulated and established by state law
- Contracts for the purchase, lease, sale, construction, installation, acquisition, improvement, enlargement, or extension of plants or other facilities or any machinery, equipment, or furnishings designed or intended for lease or sale for industrial development.
- Contracts for the construction and equipment of buildings for municipal public building authorities under *Code of Alabama 1975*, § 11-56-1 *et seq.*
 - There is no such exemption for county building authority
- Purchase of equipment or supplies needed, used, and consumed in the normal and routine operation of any waterworks, sewer, gas, or electric system owned by counties or other governmental instrumentalities where no part of the operating expenses have, during the then current fiscal year, been paid from tax revenues. See, *AG's Opinion # 95-096.*
 - This is only an exemption from purchases in the normal and routine operation of the authority. See, also, *AG's Opinion # 2001-139.*
- Exemptions for certain public corporations and entities, which exemptions are found in the statute authorizing the creation of such corporations and entities.
 - For example, *Code of Alabama 1975*, § 11-20-49 exempts county industrial development boards from the bid law. See, *AG's Opinion # 82-394.*
 - The bid law applies where public funds are expended unless there is a specific exemption. *AG's Opinion # 2005-045.*

Emergencies – Code of Alabama 1975, § 41-16-53

In case of an emergency affecting public health, safety, or convenience, contracts may be let *to the extent necessary to meet the emergency without public advertisement*, provided the emergency is declared in writing by the awarding authority, setting forth the nature of the danger involved in delaying the award.

- The action and the reasons therefore must immediately be made public
- This is *not* an exemption from the bid law, but only from public advertisement. See, e.g., *AG's Opinion # 2000-75*.

In addition to this provision, Code of Alabama 1975, § 31-9-10 requires political subdivisions of the state to establish a local emergency management organization, and provides special powers and authority in the event of a disaster. For example, the governing body is authorized “to waive procedure and formalities otherwise required by law” for public works projects, contracts, etc.

Contracts between Governmental Entities

Although this issue is not specifically addressed in the statute, the attorney general has consistently held, in opinions dating back at least as far as the late 1960's, that the competitive bid law does not apply to contracts for goods or services between governmental entities of the state, including counties and municipalities. See, e.g., *AG's Opinion # # 96-271 and 91-131*.

- However, governments in Alabama cannot purchase items under a federal contract without engaging in a bid process. *AG's Opinion # 2004-111*.

Construction Equipment Purchases – Code of Alabama 1975, § 41-16-52

There is a limited exception to the bid law provisions for the repair and/or lease of certain heavy-duty off-highway construction equipment with a gross vehicle rating of 25,000 pounds or greater.

- The exemption applies to all expenditures of not more than \$15,000 for parts and repair.
 - Exemption applies to each repair incident. See, *AG's Opinion # 2003-098*.
- This exemption also applies to leasing heavy equipment of not more than \$5,000 a month per vehicle or equipment item, not to exceed \$15,000 a month for all vehicles or equipment

BIDDING REQUIREMENTS

Bid Specifications

The bid law does not specifically address preparation of bid specifications and requests for bids. However, there are several cases and attorney general's opinions providing guidance on this subject.

- Awarding authority may designate a special product available from only one bidder, but if the specifications are so worded that they are really a particular bidder's specifications, the bidding is invalid and unlawful. *White v. McDonald Ford Tractor Co.*

- Awarding authority may not draw bid specs to ensure that only one bidder will meet those specs, but they may impose any specifications reasonably related to the job, program, or function to be performed by the bid items. *AG's Opinion # 91-282.*
- The awarding authority may use brand name in specs to indicate a level of quality if a bidder may submit a bid equal to or better than the brand name used. See, e.g., *AG's Opinion ## 91-124; 86-070 and # 86-359.*
- Awarding authority cannot mail invitations to bid to only certain bidders. *AG's Opinion ## 2005-008 and 86-359.*
- It is permissible to request alternative bids and determine which alternative is in the awarding authority's best interest regardless of which alternative produces the lowest bid. *Ericsson GE Mobile Communications, Inc. v. Motorola Communications & Electronics, Inc.*
- All bids must be in writing. *AG's Opinion # 2000-239.*

Sole Source – Code of Alabama 1975, § 41-16-57(b)

The county cannot specify the use of materials or systems by a sole source unless (1) it can document to the Alabama Building Commission that the “sole source” product is of an indispensable nature, that all other viable alternatives have been explored, and that only this product or service will fulfill the function; (2) it has been recommended by the architect or engineer who also documents that there is no other product available, that it is of an indispensable nature, and why; and (3) all information substantiating the use of the sole source specification is documented and in the project file.

Advertising – Code of Alabama 1975, § 41-16-54(a)

All proposed purchases in excess of \$15,000 shall be advertised by:

- Posting notice on a bulletin board maintained outside the purchasing office and
- Mailing notice to all who have filed a written request to be listed on certain bid solicitations
 - The county may cancel the listing of anyone on the bidders list who fails to respond to any solicitation for bids after receipt of three solicitations.
 - Entity cannot limit number of vendors to whom it will send a request for proposal. *AG's Opinion # 2005-008.*
- In any other manner as may be determined.

Time Frames – Code of Alabama 1975, § 41-16-54(a)

The awarding authority can establish reasonable time frames for submitting bids.

Reverse Auction – Code of Alabama 1975, § 41-16-54(d)

Beginning Jan. 1, 2009, an awarding authority may make purchases through a reverse auction process under procedures established by the Examiners Office.

- Under this procedure, anonymous suppliers submit bids to provide designated goods or services through a designated Internet location.
- This process is only allowed where the item to be purchased is not available on the state bid list under the same terms or the price available through reverse auction is less than the price on the state bid list.
- All items purchased through reverse auction are subject to audit by the Examiners Office.

BIDDERS REQUIREMENTS

Sealed bids – Code of Alabama 1975, § 41-16-54(b)

All bids shall be sealed when received.

- Bids cannot be received or accepted by telephone. *AG's Opinion # 83-199.*
- A faxed bid does not meet the requirements of law since not sealed. *AG's Opinion # 91-016.*

Bid Bond – Code of Alabama 1975, § 41-16-50(c)

Effective Aug. 1, 2008, the awarding authority may require bidders to furnish a bid bond. However, bid bonds are no longer required for contracts exceeding \$10,000. (See Act No. 2008-379) The following are AG's Opinions issued prior to the change in law. However, these opinions should still apply where bid bonds are required.

- Failure to submit bond is a ground for disqualifying bid where it is required in specifications. *AG's Opinion # 2003-196.* See also, *Steeley v. Nolen.*
- The bidder must be the principal on the bond. *Steeley v. Nolen, supra.*
- The bid bond remains in effect until the contract is executed. *AG's Opinion # 82-220.*
- The bid bond should be for an amount to protect the county against substantial damages, loss, or detriment. *AG's Opinion # 82-220.* See also, *Steeley v. Nolen.*
- An irrevocable letter of credit may be accepted as the bid bond. *AG's Opinion # 92-053.*
- Awarding authority may not require a certified check in lieu of bid bond but it may accept one if it chooses and the bidder wishes to use a certified check. *AG's Opinion # 85-032.*

- The bid law does not state at what point of the bid process it must be supplied, but if bid specifications state the bond must be included with the bid, a bid without a bid bond is nonresponsive and cannot be considered. *AG's Opinion # 2003-196.*
- If specs do not specify when bid bond is to be furnished, failure to include it at bid opening can be waived as minor informality. *AG's Opinion #2003-196.*

Compliance with Bid Requirements

There is no statutory provision specifically addressing compliance with bid requirements. Again, there are some attorney general's opinions providing guidance.

- Whether failure to comply with the terms of an invitation to bid is a minor irregularity is a factual determination to be made by the awarding authority. *AG's Opinion # 97-281.*
- Low bidder may be given opportunity to comply with specifications in the awarding of the contract, but there should not be any material alterations in the bid after it is opened to comply with specifications. *AG's Opinion # 92-397.*
- A bidder who previously withdrew his bid may rebid on the same contract if all bids on the original contract are subsequently rejected and the contract rebid, provided that there is no fraud or collusion. *AG's Opinion # 2002-246.*
- If bid specifications do not state when bid bond must be presented, failure to include bond with the bid can be waived as minor informality. *AG's Opinion # 2003-196.*

Opening Bids – Code of Alabama 1975, § 41-16-54(b)

All bids shall be opened in public at the hour stated in the notice, and all original bids and all documents pertaining to award of the contract shall be retained for seven years from the date opened and shall be open to public inspection. See, *AG's Opinion # 95-010.*

Life Cycle Costs – Code of Alabama 1975, § 41-16-57(c)

Beginning Jan. 1, 2009, an awarding authority may consider “life cycle costs” in making its determination of who is the lowest responsible bidder. This means that the awarding authority may consider the expected life of the item as that can be ascertained from industry recognized and accepted resources.

- Notice that “life cycle costs” may be utilized in determining the lowest responsible bidder must be included in bid specs.
- Awarding authority must follow procedures established by the Examiners Office.

AWARD OF CONTRACT

LOWEST RESPONSIBLE BIDDER – Code of Alabama 1975, § 41-16-57(a)

The contract award shall be made to the lowest responsible bidder, determined by taking into consideration the following:

- The qualities of the commodities proposed to be supplied,
- Their conformity with specifications,
- The purposes for which required,
- The terms of delivery,
- Transportation charges, and
- Dates of delivery

Some attorney general and case interpretations of this issue are as follows:

- The county may take into consideration the bidder's integrity. See, *AG's Opinion # 82-305*.
- Quality is a consideration when determining responsibility, and it is appropriate to look at size, experience, equipment, etc. *Crest Construction Corp. v. Shelby County Board of Education*.
- Awarding authority may consider the quality of the materials and adaptability to use required. *White v. McDonald Ford Tractor Co., supra*.
- The use of insider information and possibility or perception of such use is a factor that may be used in determining the responsibility of a vendor. *AG's Opinion # 2002-030*.
- A bid accepted in error as the lowest responsible bid is void and the awarding authority, upon discovery of the error, may award to the lowest bidder. *AG's Opinion # 2002-071*.

PREFERENCES

Alabama Preference – Code of Alabama 1975, § 41-16-57(b)

The county shall give preference to commodities produced in Alabama or sold by Alabama companies provided there is no sacrifice or loss in price or quality.

Local Preference – Code of Alabama 1975, § 41-16-50(a)

Prior to advertising for bids for an item of personal property, the awarding authority may establish a three percent (3%) local preference zone consisting of either (1) the legal boundaries or jurisdiction of the awarding authority, (2) the boundaries of the county in which the awarding authority is located, *or* (3) the boundaries of the awarding authority's Core Based Statistical Area (CBSA).

- If no preference is established, the local preference zone is the legal boundaries or jurisdiction of the awarding authority.
 - Awarding the local preference is permissive. *AG's Opinion # 92-076.*
 - Preference applies only to the purchase of tangible personal property and not materials and services. *AG's Opinion # 92-198.*
 - The preference applies to bidders who maintain one or more stores in the county even if the "home office" is not in the county. *AG's Opinion # 2002-070.*

REJECTION/NEGOTIATION

Price or Quality – Code of Alabama 1975, § 41-16-57(c)

The awarding authority may reject any bid if the price deemed excessive or quality inferior. .

- Once bid is rejected, it ceases to exist, and the awarding authority cannot accept it and award the contract. *AG's Opinion ## 96-317 and 99-008.*

One Bidder – Code of Alabama 1975, § 41-16-50(a).

If only one bidder responds bid invitation, awarding authority may reject the bid and negotiate, provided the negotiated price is lower than the bid price. See, e.g., *AG's Opinion # 98-140.*

Negotiation

An awarding authority may negotiate a lower contract price with a successful bidder provided that there is no change in the specifications. *AG's Opinion # # 96-240 and 95-002.*

AWARD AFTER DEFAULT

Second Lowest Bidder – Code of Alabama 1975, § 41-16-57(a)

Effective Aug. 1, 2008, an awarding authority can award the bid to the second lowest bidder if the lowest bidder defaults on the contract after the award has been made, but only under the following circumstances:

- The lowest responsible bidder notifies the awarding authority in writing that he or she will no longer comply with the contract terms, or
- The awarding authority documents the default.
- The second lowest bidder must agree to all terms and conditions in his or her original bid.
- The award shall only be for remainder of the original contract term.

PUBLIC INSPECTON

Code of Alabama 1975, § 41-16-57(d) requires that each record regarding the award of the contract be open to inspection, which record shall indicate the successful bidder, and state the reasons for the award if not made to the lowest bidder.

CONTRACT REQUIREMENTS

Contract Term Limitations – *Code of Alabama 1975, § 41-16-57(e)*

Contracts for the purchase of personal property or contractual services shall not be for periods greater than three years.

- Lease purchase contracts may be for periods not greater than ten years.
- *Section 41-16-57(e)* only applies to contracts which are competitively bid. See, e.g., AG's *Opinion ## 2005-192; 2001-049; and 89-173.*
- A public works contract is not subject to time limits. *AG's Opinion # 2002-072.*

Contract Bond – *Code of Alabama 1975, § 41-16-58*

A performance bond (separate from the bid bond) may be required in an amount specified in the advertisement for bids.

Assignment of Contract – *Code of Alabama 1975, § 41-16-59*

Assignment of the contract by the successful bidder without the written consent of the awarding authority is prohibited.

- A contract cannot be assigned to an unsuccessful bidder whose bid was rejected because he was not a responsible bidder.

PROHIBITIONS/VIOLATIONS

Collusion – *Code of Alabama 1975, § 41-16-55*

The law prohibits any agreement or collusion among bidders or prospective bidders to bid at a fixed price or to refrain from bidding in restraint of freedom of competition. Any such activity renders the bids void and causes the bidders to be disqualified from submitting further bids on future purchases.

- This is a Class A misdemeanor punishable by up to one year and/or \$2000 fine.

Advance Disclosure – *Code of Alabama 1975, § 41-16-56*

Any disclosure in advance of the terms of a bid submitted in response to a bid advertisement shall renders the proceedings void and requires readvertisement and award.

Splitting Contracts – Code of Alabama 1975, § 41-16-54(d)

It is a violation of the law to divide a purchase or contract into parts involving \$15,000 or less for the purpose of avoiding the competitive bid law. All such partial contracts shall be void.

- For a good discussion on application of this provision, see *AG's Opinion # 82-343*.

Conflicts – Code of Alabama 1975, § 41-16-60

No member of the county commission (or other local governmental entity) shall be directly or indirectly financially interested or have any personal beneficial interest in the purchase of or contract for personal property or contractual services. The attorney general has held that a person is financially interested if: (1) the business is owned solely by the official and/or his or her spouse; (2) the official owns a majority of stock in the business; or (3) the business is a family-held corporation. *AG's Opinion # 95-164*.

- This provision also states that no person shall willfully make any such purchase or contract. See, *AG's Opinion # 99-226*.
- Violation of this section is a misdemeanor punishable by imprisonment for not more than 12 months and/or fine of not more than \$500.
- Any person willfully making such purchase or contract shall be removed from office.
- The section applies regardless of intent to bid. *AG's Opinion ## 95-164; 91-254; 88-245; and 87-287*.
- This section would not prohibit an officer from bidding on a contract with the board on which he or she serves, but would prohibit the officer from contracting with the board, with or without bidding, so there would be no point in bidding. *AG's Opinion # 89-198*.
- Where the official is donating services and there is no contract, there is no contractual relationship with the governmental entity and no violation. *AG's Opinion # 2000-003*.
- There is also a “conflict” provision in the Ethics Law at Code of Alabama 1975, § 36-25-9

Auctions

The attorney general's office has held that a county cannot purchase items which meet the competitive bid requirements from an auction. *AG's Opinion # 91-037*.

CONTRACTS VIOLATING COMPETITIVE BID LAW

Contract Void – Code of Alabama 1975, § 41-16-51(d)

Any contract entered into in violation of the competitive bid law is void.

- Awarding authority cannot agree to “correct” problems with bid after contract entered into, and any attempt to correct is void. *Board of School v. Coastal Builders*.

Felony – Code of Alabama 1975, § 41-16-51(d)

Anyone who violates the competitive bid law shall be guilty of a Class C felony, which is punishable by a sentence of one to ten years and/or up to a \$5,000 fine.

Substantial Compliance

Both the appellate courts and the attorney general’s office have held that in reviewing whether the competitive bid law has been followed, the contract will not be illegal and void if the awarding authority has “substantially complied” with the law. See, *AG’s Opinion # 2004-018*.

AVAILABLE LEGAL ACTIONS

Injunction – Code of Alabama 1975, § 41-16-61

A civil action to enjoin the execution of a contract entered into in violation of the competitive bid law may be brought by any taxpayer within the jurisdiction of the awarding authority or any bona fide unsuccessful bidder.

- An unsuccessful bidder cannot bring an action to enjoin the awarding authority from rejecting all bids and rebidding the contract or to compel the awarding authority to award the contract to him/her. *Vinson Guard Service, Inc. v. Retirement Systems of Alabama*.

Compensatory Damages

The Supreme Court and the attorney general’s office have consistently held that legal action *cannot* be brought for compensatory damages (such as loss of profits) under the competitive bid law. See, e.g., *AG’s Opinion # 93-297*.

SPECIAL PURCHASING/CONTRACTING PROVISIONS

JOINT PURCHASING – Code of Alabama 1975, § 41-16-50(b)

Authority for Joint Purchasing

The governing bodies of two or more counties may “provide by joint agreement for the purchase of labor, services, or work or for the purchase or lease of materials, equipment, supplies, or other personal property for use by the respective agencies.” All purchases, contracts, or agreements made pursuant to a joint purchasing agreement shall be subject to all terms and conditions of the competitive bid law.

Procedures for Joint Purchasing

Each entity shall enter into similar resolutions setting forth the categories of purchases or leases to be included and the procedures, including:

- The manner of advertisement for bids and awarding of contracts;
- The method of payment by each participating contracting agency; and

- Each county's share of the expenditures.
- Any other matters deemed necessary to carry out the purposes of the agreement

The counties entering into a joint agreement may designate a joint purchasing agent and that the agent shall have the responsibility to comply with the competitive bid law.

GOVERNMENTAL LEASING

Code of Alabama 1975, § 41-16A-2 states that it is in the public interest to have flexibility to finance the acquisition, installation, equipping, and/or improvement of certain property through the use of lease, lease-purchase, or installment-purchase financing. To this end, *Chapter 16A of Title 41 of the Code of Alabama* provides for “alternative financing” for purchases of eligible property by governmental entities in the state.

Eligible Property – *Code of Alabama 1975, § 41-16A-3(d)*

The statute allows for the lease, lease-purchase, or installment-purchase financing of “eligible property”, which is defined as, “Any tangible personal property, or any interest therein, including without limitation any goods, supplies, materials, appliances, equipment, furnishings, and/or machinery, whether or not such items constitute fixtures.”

- This definition does not include real property. See, *AG's Opinion # 99-224*.

Alternative Financing Contracts – *Code of Alabama 1975, § 41-16A-3(a)*

An alternative financing contract is defined in the statute as “A lease, lease-purchase, lease with option to purchase, installment-sale agreement or arrangement, or other similar agreement or arrangement.”

- *Code of Alabama 1975, § 41-16A-4* authorizes the governmental entity to execute, perform, and authorize payments under an alternative financing contract.
- The statute has very broad contracting powers, and states that it is to be liberally construed to achieve its goal of allowing governmental entities to enter into lease or lease purchase agreements of personal property. *Code of Alabama 1975, § 41-16A-5*. See, also, *AG's Opinion # 99-224*.
- However, this section of the Code does *not* create an exception to the competitive bid law.

SURPLUS PERSONAL PROPERTY

Code of Alabama 1975, § 41-16-120 et seq., provides for the sale and disposal of surplus personal property owned by the state through ADECA. Counties are permitted to participate in these purchases as an “eligible entity”. Some of the provisions important to counties are outlined below.

Procedures for Sale of Surplus Property – *Code of Alabama 1975, § 41-16-120(e) and 123*

ADECA can sell surplus property at fair market value to eligible entities under its established and published rules.

- Proposals for sale shall be advertised for at least two weeks in advance of the date fixed for receiving bids
- Bids shall be publicly taken or opened.
- The contract shall be made to the successful bidder within 72 hours after taking of bids.
 - Payment for purchases shall be made within 30 days after purchase.
 - If payment is not made within 60 days, the purchase shall be declared void and in default, and the property shall be immediately returned to ADECA by the defaulting purchaser.
 - If a successful bidder fails to accept the award of a contract, he or she shall be prohibited from bidding at a future sale unless reinstated by the director of ADECA.
 - ADECA is authorized to collect shipping and handling charges from the purchaser.

ALABAMA'S PUBLIC WORKS LAW

Alabama's Public Works Law, found in *Title 39 of the Code of Alabama 1975*, was substantially rewritten in 1997. The most significant change for counties is that the public works law now applies to county governmental entities. Many of the provisions in the public works law are similar or identical to the provisions of the competitive bid law. However, the rules for public works projects, outlined below, are in many respects more restrictive and burdensome than those for purchases made under the competitive bid law.

APPLICABILITY OF STATUTE

PUBLIC WORKS PROJECT

The public works law applies to any public works project in excess of \$50,000 involving an expenditure of public funds. The provisions of the public works law are mandatory and shall be construed to require strict competitive bidding.

According to *AG's Opinion # 2004-026*, there is a two-prong test to determine whether the public works law applies:

- (1) Is the work on public property or property which will become public and
- (2) Is the work to be paid for, in whole or in part, by public funds.

Code of Alabama 1975, § 41-16-50 (in the competitive bid law) specifically provides that **only** the public works law applies to public works projects. Since the threshold for application of the public works law is \$50,000, a public works project is not subject to public works (with limited exceptions discussed below) **or** the competitive bid law.

- However, the competitive bid law would apply to the purchase of materials or services in excess of \$7,500. See *AG's Opinion ## 98-39 and 98-52*.

Public Works Defined – *Code of Alabama 1975*, § 39-2-1(5)

“Public Works” is defined as, “The construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.”

- “Public Property” is defined in § 39-2-1(4) as, “Real property which the state, county, municipality, or awarding authority thereof owns or has a contractual right to own or purchase, including easements, rights-of-way, or otherwise.”
- Public funds include federal funds, as well as state, county, and municipal funds. *AG's Opinion # 98-031*.
- Where no public funds are expended and no county materials, equipment, supplies, or personnel, the project is not subject to the public works law. *AG's Opinion # 2002-052*.

- Public works law does not apply where work is performed on public property, but paid for entirely with private funds. *AG's Opinion # 2004-026.*

Monetary Threshold \$50,000 – Code of Alabama 1975, § 39-2-2.

Contracts involving \$50,000 or less may be let with or without advertising or sealed bids.

- There is a requirement that the completion of projects under \$50,000 be advertised before final payment.
- The cost of work performed by employees of the awarding authority is not included for purposes of determining whether this monetary threshold is met. *AG's Opinion # 2004-083.*
- Bonding is not required to secure contracts in an amount less than \$50,000 (*See, § 39-1-1(e)*)

EXEMPTIONS/EXCLUSIONS

As with the competitive bid law, there are some exemptions and exclusions under the public works law. However, they are much more limited.

Professionals – Code of Alabama 1975, § 39-2-2(d)

Contracts with persons who only perform architectural, engineering, construction management, or project management services are exempt from the public works law. *See, AG's Opinion # 99-056.*

There are specific procedures for the procurement of professional services for any contract with the state. See, in particular, Code of Alabama 1975, § 41-16-20.2. This act does not apply to counties, but will affect any county contracts involving the Department of Transportation or other state agency.

Exempt Public Authorities - Code of Alabama 1975, § 39-2-1(1)

The public works law exempts from the definition of an awarding authority any entity exempted by statute from the competitive bid law. This would include the following:

- Municipal public building authorities are exempted pursuant to Code of Alabama 1975, § 11-56-1 et seq. *AG's Opinion ## 99-218 and 99-224.*
 - County building authorities are not exempt
- Industrial development boards. *AG's Opinion ## 98-051 and 82-394.*
- Public park and recreation boards are exempt. *AG's Opinion # 99-056.*

Convict Labor - Code of Alabama 1975, § 39-2-6(e)

The public works law specifically states that nothing in the law shall preclude the use of convict labor by the awarding authority.

Employee Projects - Code of Alabama 1975, § 39-2-6(e)

The law also does not apply to routine maintenance and repair jobs or road or bridge construction work performed by county employees with equipment of the awarding authority.

- And the cost of work performed by employees is excluded in determining the cost of the project and whether the public works law applies. *AG's Opinion # 2004-083.*

Emergencies - Code of Alabama 1975, § 39-2-2(e)

As in the competitive bid law, contracts may be let *without advertisement* to the extent necessary to meet the emergency in an emergency “affecting public health, safety, or convenience”. The emergency must be declared in writing by the awarding authority setting forth the nature of the danger involved in delay and the action and reasons must be made public immediately.

- This is not an exemption from the bid law, but only from public advertisement. *General Electric Co. v. City of Mobile et al.*
- Awarding authority should still seek proposals for finishing projects to ensure that the work will be performed at lowest possible price. *AG's Opinion # 85-35.*

Section 39-2-2 was amended in 2004 to provide that certain contracts affecting homeland security may be let by informal bid and without public advertisement.

- The Homeland Security Director must acknowledge in writing that the proposed public works project has a direct impact on safety or security of persons and requires confidentiality.

In addition, *Code of Alabama 1975, § 31-9-10* requires each political subdivision of the state to establish a local emergency management organization, and provides special powers and authority in the event of a disaster. *Section 31-9-10(b)(5)* provides that, in the event of a disaster as described in *Code of Alabama 1975, § 31-9-2*, the governing body is authorized “to waive procedure and formalities otherwise required by law” for public works projects, contracts, etc. This is much broader power than that allowed under *Code of Alabama 1975, § 39-2-2(e)*, but also has much more limited application.

BIDDING OPTIONS

PREQUALIFICATION – Code of Alabama 1975, § 39-2-4

Prequalification of bidders is not required but is permitted if proper procedures are applied. To prequalify bidders, the awarding authority must establish written prequalification procedures and criteria that must be published in the same manner as bid advertisements sufficiently in advance of contract to allow a bona fide bidder to obtain prequalification prior to preparing bid.

- Prequalification publication may run concurrently with bid advertisement if it produces required advance notice.

The prequalification procedures must permit reasonable competition at a level that serves the public interest and must be related to:

- The purpose of the contract or contracts affected

- The contract requirements or quality of product or service in question and
- The responsibility of bidder, including competency, experience, and financial ability

Prequalification Determination – Code of Alabama 1975, § 39-2-4(d)

Any bidder who has prequalified shall be deemed “responsible” for purposes of award unless prequalification is revoked by the awarding authority by written notice stating grounds for revocation within five working days or the next regular meeting after opening of bids. The awarding authority must make a good faith showing of a material inaccuracy in the prequalification application or a material change in the responsibility of the bidder since the prequalification application submission.

- The bidder must be provided an opportunity to be heard on the intended revocation
- Revocation must be determined no later than 10 days after written notice of intent to revoke unless the bidder agrees in writing to an extension of time.

SOLE SOURCE -- Code of Alabama 1975, § 39-2-2(f)

The awarding authority cannot specify the use of materials, products, systems, or services by a sole source unless it is of indispensable nature, there are no other viable alternatives, it is the only product that fulfills the function for which needed, and it has been recommended by the architect or engineer as an “indispensable item” for which there is no viable alternative.

- Except in contracts involving roads, bridges, or water and sewer facilities, this information must be documented to the satisfaction of the State Building Commission
- All information substantiating use of a sole source specification must be documented and made available for examination at the time of advertisement

BIDDING REQUIREMENTS

ADVERTISING – Code of Alabama 1975, § 39-2-2(a)

The public works law requires that the awarding authority advertise for sealed bids once each week for three consecutive weeks in a paper of general circulation in the county. Advertising must be done a reasonable period of time before the time scheduled for acceptance of bids. See, *AG’s Opinion # 97-247*. The advertisement must:

- Briefly describe the project
- State the procedure for obtaining plans and specifications
- State the time and place for bids to be received and opened and
- State whether prequalification required and where prequalification information is available

For contracts in excess of \$500,000, the awarding authority must also advertise at least once in three newspapers of general circulation throughout state.

- For a good discussion of “newspaper of general circulation throughout the state”, see *AG’s Opinion # 97-247*. See also, *AG’s Opinion # 2004-018*.

Code of Alabama 1975, § 39-3-5, which addresses the preference to resident contractors in letting public works contracts, requires that a copy of that Code section be made a part of the advertised specifications of all projects affected by it.

BID DOCUMENTS

As with the competitive bid law, there is no specific provision in the public works law addressing preparation of requests for proposals or specifications for bidding purposes, but there are cases and attorney general’s opinions on the subject.

- Awarding authority may designate a special product available from only one bidder, but if the specifications are so worded that they are really a particular bidder’s specifications, the bidding is invalid and unlawful. *White v. McDonald Ford Tractor Co.*
- Awarding authority may not draw bid specs to ensure that only one bidder will meet those specs, but they may impose any specifications reasonably related to the job, program, or function to be performed by the bid items. *AG’s Opinion # 91-282*.
- Awarding authority cannot mail invitations to bid to only certain bidders. *AG’s Opinion ## 2005-008 and 86-359*.
- It is permissible to request alternative bids and determine which alternative is in the awarding authority’s best interest regardless of which alternative produces the lowest bid. *Ericsson GE Mobile Communications, Inc. v. Motorola Communications & Electronics, Inc.*
- All bids must be in writing. *AG’s Opinion # 2000-239*.

Inspection of Bid Documents – Code of Alabama 1975, § 39-2-3(b) and (c)

The public works law includes detailed procedures regarding obtaining bid proposals and making bid documents available for review and inspection.

- An adequate number of sets of bid documents may be obtained by prime contractor bidders upon payment of a deposit for each set
 - The deposit shall not exceed twice the cost of printing, reproduction, handling, and distribution of each set
 - The deposit, less cost of printing, handling, and distribution, shall be refunded upon the return of documents in reusable condition within 10 days after bid opening
 - All refunds are due from awarding authority within 20 days after the bid opening
- Additional sets of bid documents for prime contractor bidders, subcontractors, vendors, or dealers may be obtained upon payment of the same deposit
- Building exchanges and similar agencies are furnished plans and specifications at no charge

BIDDERS REQUIREMENTS

SEALED BIDS – Code of Alabama 1975, § 39-2-2(a)

Although the public works law does not specifically state that bidder must submit sealed bids, it does require that the awarding authority advertise for “sealed bids” and that all bids be opened publicly at the advertised time and place.

Any advance disclosure of the bid terms renders the proceedings void and requires readvertisement and award. Code of Alabama 1975, § 39-2-6(h).

BID GUARANTY – Code of Alabama 1975, § 39-2-4(a)

All bidders must file either a cashier’s check drawn on an Alabama bank or a bid bond executed by a surety authorized to make such bonds in Alabama.

- Check or bond shall be not less than 5% of the estimated cost not to exceed \$10,000
- The bid bond or check constitutes all of the qualification or guarantee required as a prerequisite to bidding except as required by the State Licensing Board for General Contractors and any prequalification requirements of the awarding authority

RETURN OF BID GUARANTY – Code of Alabama 1975, § 39-2-5

Except for the three lowest bona fide bidders, all bid guaranties shall be returned immediately after bids have been checked, tabulated, and the relation of the bids established.

- Guaranties of the three lowest bidders shall be returned as soon as bonds and contract of the successful bidder are properly executed and approved by the awarding authority
- When an award is deferred for more than 15 days, all guaranties except those of potentially successful bidders shall be returned.
- If no award is made within 30 days after opening or other time specified in bid documents, all guaranties shall be returned except for any potentially successful bidder who agrees in writing to a stipulated extension.
 - In this instance, the awarding authority may permit a potentially successful bidder to substitute a satisfactory bidder’s bond for a cashier’s check submitted with bid.

MISTAKE OF BIDDER – Code of Alabama 1975, § 39-2-11

A low bidder who discovers a mistake in his or her bid rendering the price substantially out of proportion to other bidders may seek withdrawal of the bid without forfeiture by providing written notice within three working days after opening of bids

- Bidder must offer clear and convincing documentary evidence that the mistake is due to calculation or clerical error, an inadvertent omission, or a typographical error
- If withdrawal is allowed, the low bidder is prohibited from doing any work on the contract or from bidding on same project if it is readvertised.

AWARD OF CONTRACT

Lowest Responsible and Responsive Bidder – Code of Alabama 1975, § 39-2-6

The contract shall be awarded to the lowest responsible and responsive bidder unless awarding authority finds all bids are unreasonable or that it is not in its interest to accept any of the bids.

- “Responsible Bidder” is defined as “one who, among other qualities determined necessary for performance, is competent, experienced, and financially able to perform the contract”.
- “Responsive Bidder” is “one who submits a bid that complies with the terms and conditions of the invitation for bids.”
 - Minor irregularities in the bid will not defeat responsiveness.

Assignment of Contract – Code of Alabama 1975, § 39-2-6(f)

No contract awarded to the lowest responsible and responsive bidder shall be assignable by the bidder without written consent of the awarding authority and in no event shall the contract be assigned to an unsuccessful bidder whose bid was rejected because he was not responsible or responsive.

When Bidder Fails to Complete Contract – Code of Alabama 1975, § 39-2-6(a)

If the successful bidder fails or refuses to sign the contract, make bond, or provide the required evidence of insurance, the contract may be awarded to the second lowest responsible and responsive bidder, and if the second lowest bidder fails or refuses to comply with requirements, the contract may be awarded to the third lowest responsible and responsive bidder.

Rejection of Bids – Code of Alabama 1975, § 39-2-6(b), (c), and (d)

If no bids or only one bid is received, the awarding authority may do any of the following:

- Advertise for and seek other competitive bids
- Direct that work be done by force account *or*
- Negotiate work through informal bids not subject to bid requirements, provided that any negotiation must be for a price lower than that bid.
 - Where work is negotiated through informal bids, the plans, specs, changes, estimated and actual costs, and any informal bids shall be made available for review by the Examiners of Public Accounts and made public upon request

If the awarding authority finds that all bids are unreasonable or that it is not in its best interest to accept any of the bids, it may direct work done by force account.

Bids Exceed Project Cost

Where all bids exceed the project budget and there were several bidders, the awarding authority *cannot* negotiate with those who submitted bids to bring construction costs within available funding, but must alter specifications and rebid. *AG’s Opinion # 2002-006.*

Force Account – Code of Alabama 1975, § 39-2-6(c)

Force account work is defined in Code of Alabama 1975, § 39-2-1(2) as “Work paid for by reimbursing the actual costs for labor, materials, and equipment usage incurred in the performance of the work, as directed, including a percentage for overhead and profit, where appropriate.” An agency may carry out a project by force account when it has available resources, facilities, and personnel, and finds that it would be most efficient use of. *AG’s Opinions # 98-39 and # 98-52.*

- The attorney general has held that “force account” and “in-kind services” have the same meaning. *AG’s Opinion # 98-039.*
- *Section 39-2-6(d)* provides that awarding authority may let any subdivision or unit of work being performed by force account by “informal bids”. See, also, *AG’s Opinion # 2000-218.*
- Laborers under force account must be employees of the awarding authority and not contract employees or employees of a contractor. *AG’s Opinion # 2000-218.*
- Where work is by force account, drawings, specs, and estimates must be prepared by professional engineer and construction must be under direct supervision of a professional engineer as required by Code of Alabama 1975, § 34-11-10. *AG’s Opinion # 99-065.*
- Cost of force account work performed by employees is not included in determining whether project exceeds \$50,000 and falls under the public works law. *AG’s Opinion # 2004-083.*

If the county rejects all bids as unreasonable or not in its interest, it may direct that work be done by force account under its direction and control.

- If a project is carried out by force account, the plans, specs, changes, estimated and actual costs, and any informal bids shall be made available for review by the Examiners of Public Accounts and made public upon request. See, also, *AG’s Opinion # 98-039.*

Since no contract would be signed where a project is carried out by force account, the public works law has no effect. However, the competitive bid law would still apply for the purchase of materials, supplies, and equipment in excess of \$7,500. *AG’s Opinions ## 99-065; 98-039 and 98-052.*

- In-kind services that will serve as a match for ADECA grant funds are not required to be competitively bid. *AG’s Opinion # 98-052.*

Award Time Frame – Code of Alabama 1975, § 39-2-5

If no award is made within 30 days of opening of bids all bids shall be rejected and all guaranties shall be returned except for any potentially successful bidder that agrees in writing to a stipulated extension in time for consideration of bid.

Notification to Successful Bidder – Code of Alabama 1975, § 39-2-6(a)

The awarding authority shall notify the successful bidder by telegram, confirmed fax, or letter at the earliest possible date.

Awarding Authority's Responsibility in Completing Contract

Within 20 days after presented by the contractor, the awarding authority must approve bonds and evidence of insurance and complete execution of the contract unless the contractor agrees in writing to a longer period. Code of Alabama 1975, § 39-2-9. If the awarding authority fails to complete execution of the contract and issue a proceed order, the contractor may withdrawal his or her bid without forfeiture of check or bond unless the contractor agrees in writing to a longer period. Code of Alabama 1975, § 39-2-11(c).

Proceed Order – Code of Alabama 1975, § 39-2-10

Within 15 days after final execution of the contract (and execution by Governor, if required), the awarding authority shall issue a proceed order unless both parties agree in writing to a stipulated extension.

Certificate of Compliance – Code of Alabama 1975, § 39-5-1(b)

Prior to execution of final contracts and bonds, the awarding authority must certify that the contract was awarded in compliance with law. The certificate of compliance constitutes a rebuttable presumption that the contract was let in accordance with the law, rebuttable only by clear and convincing evidence that the certification was false or fraudulent and that the contractor knew the certification was false or fraudulent before execution of the contract.

- An awarding authority or agent who willfully issues a false or fraudulent certificate shall be guilty of a felony punishable upon conviction by a fine of not less than \$5,000 nor more than \$50,000 or imprisonment for one to three years. Code of Alabama 1975, § 39-5-2.

Bonds and Insurance – Code of Alabama 1975, § 39-1-4

The public works law prohibits the awarding authority and its employees or agents from requiring the bidder to obtain a bond or insurance from a particular company. Additionally, no awarding authority or its employees or agents may negotiate or procure any bond or insurance for a bidder, contractor, or subcontractor, except insurance for builder's risk or owner's liability.

Responsibilities of Successful Bidder – Code of Alabama 1975, § 39-2-8

Within 15 days of awarding the contract and presenting forms for signature, the successful bidder must: enter into a contract, furnish a performance bond equal to 100% of the contract price, furnish a payment bond of not less than 50% of the contract price for payments of all labor and materials, and provide evidence of insurance as required by the bid documents.

- The county may grant a 5 day extension if there are extenuating circumstances
- If the successful bidder fails to comply with these requirements, the county shall retain or recover from the bid guaranty the difference between the contract amount as awarded and the amount of the next lowest proposal.
 - If there are no other bids, the full amount of the guaranty shall be retained as liquidated damages.

Out of State Contractors – Code of Alabama 1975, § 39-2-14

Every nonresident contractor under Code of Alabama 1975, § 39-2-12(a)(2) shall register with the Department of Revenue prior to engaging in performance of a contract and shall deposit with the Department of Revenue 5% of the contract amount or a surety bond.

- Within 30 days after registration, the nonresident contractor shall file a statement itemizing materials, equipment, etc. that will be or is being used on the job.

Domestic Product Preference – Code of Alabama 1975, §39-3-1

When contracting for public works projects financed entirely by the State or any of its political subdivisions (including counties), the awarding authority must agree to use materials manufactured in the U.S. or its territories if available at a reasonable and competitive price and not contrary to any sole source specifications.

- The awarding authority must stipulate to this agreement in the contract.
- If the contractor breaches and domestic products are not used, there shall be a downward adjustment in the contract equal to any realized savings or benefits to the contractor.

Domestic Steel – Code of Alabama 1975, §39-3-4

A contractor must use steel produced in the U.S. when specifications require the use of steel and do not limit its supply to a sole source.

- If the awarding authority decides that procurement of domestic steel products becomes impractical due to a national emergency, strike, or other cause, it shall waive the restriction
- If the contractor violates this requirement, and domestic steel is not used, there shall be a downward adjustment in the contract equal to any realized savings or benefits to the contractor.

Local Preference – Code of Alabama 1975, § 39-3-5

The public works law provides that preference shall be given to “resident contractors”.

- There is no definition of “resident contractor”, but it appears to mean residency in the state and not in a particular county
- A nonresident bidder from a state which has laws granting preferences to local contractors shall be awarded Alabama contracts “only on the same basis as the nonresident bidder’s state awards contracts to Alabama contractors”

Splitting Contracts – Code of Alabama 1975, § 39-2-2

As is the case of a contract under the competitive bid law, no public works contract in excess of \$50,000 shall be split into parts involving \$50,000 or less for the purpose of evading the public works law.

- Where work is added to a project originally under \$50,000 without bidding or approval of the awarding authority, the additional amount cannot be paid. *AG’s Opinion # 2002-126.*

- The public works law does not contain a contract term limitation such as is in the competitive bid law, and a public works contract cannot be split by contract term length (i.e. cost for three years) to avoid reaching \$50,000 threshold. *AG's Opinion # 2002-072.*
- All separate “pieces” of a public works project must be bid if the total cost of the project exceeds \$50,000. *AG's Opinion # 2004-083.*

Change Orders

The public works law does not specifically provide for change orders, but they have consistently been allowed by the attorney general's office pursuant to guidelines it has articulated in interpreting the intent of the bid law. *AG's Opinion ## 2000-098 and 93-105.*

In *AG's Opinion # 79-313*, the attorney general authorized “Changes of relatively minor items not contemplated when the plans and specifications were prepared and the project was bid which are in the public interest and which do not exceed 10% of the contract price.” Since that opinion was issued, the attorney general has consistently held that change orders were appropriate under certain circumstances, and has condoned changes in excess of 10% where “extraordinary circumstances” exist, particularly where funds are provided through a community development block grant (CDBG funds). See, e.g., *AG's Opinion ## 2001-182; 2000-098; 93-105; 92-388; 91-279; 87-197; and 87-153.* The allowance of “change orders” should not be construed to authorize alteration or addition to the original item or project bid. See, *AG's Opinion # 2002-126.*

In almost all of the opinions addressing change orders, the attorney general points out that the most important requirement of the law is the good faith of the officials charged in executing the law. Additionally, that office has held that attached to each change order should be a signed statement from the project engineer setting out each of the following:

- A statement of what the change order covers, who instituted it, and why
- A statement of the reasons for using the change order method rather than competitive bids and
- A statement that all prices have been reviewed and found reasonable, fair, and equitable and recommending the approval

RETAINAGE

DEFINITION – Code of Alabama 1975, § 39-2-12(a)(3)

Retainage is defined as “That money belonging to the contractor which has been retained by the awarding authority conditioned on final completion and acceptance of all work in connection with a project or projects by the contractor.”

PROCEDURE FOR PAYMENT – Code of Alabama 1975, § 39-2-12(b) and (c)

Payments are made at end of each month as work progresses.

- No more than 5% of the estimated work done and the value of materials shall be retained
- No further retainage shall be held after 50% of work is completed

- There is no retainage withheld on contracts entered into by the Department of Transportation for construction or maintenance of public highways, bridges, or roads.
- The retainage language is mandatory and cannot be altered in bid specifications. AG's *Opinion # 97-256*.
 - The awarding authority may provide in bid specs that partial payments will not be made or will be made other than at the end of the month, but partial payments shall be made as the work progresses "unless otherwise provided in the specifications"
 - If partial payments are to be made, the awarding authority cannot specify retainage in excess of 5% or require that retainage continue after a 50% completion of the project

RESPONSIBILITY FOR MATERIALS AND WORK – Code of Alabama 1975, § 39-2-12(g)

All material and work covered by partial payments becomes the sole property of the awarding authority.

- But the contractor is not relieved of sole responsibility for care and protection of materials and work upon which payments have been made and for restoration of any damaged work

ALTERNATIVES TO RETAINAGE – Code of Alabama 1975, § 39-2-12(d)

In lieu of retainage, the awarding authority may provide in specifications and contracts for the maintenance of either

- An escrow account as provided in Code of Alabama 1975, § 39-2-12(e) or
- Security as provided in Code of Alabama 1975, § 39-2-12(f)

OVERPAYMENT TO CONTRACTOR – Code of Alabama 1975, § 39-2-12(j)

The contractor must remit any overpayment to the Department of Transportation or a county awarding authority within 120 days of written notice of the overpayment.

- If the contractor fails to remit, he or she is disqualified as a prime contractor on future DOT or county road projects until payment is made.

COMPLETION AND PAYMENT PROVISIONS

ADVERTISEMENT UPON PROJECT COMPLETION

Contracts of \$50,000 or More – Code of Alabama 1975, § 39-1-1(f)

For contracts of \$50,000 or more, the contractor must give notice of completion of a project by advertising in a newspaper of general circulation published within the city or county where the work has been done for four consecutive weeks.

- If there is no newspaper published in the county, notice may be given by posting at the courthouse for 30 days

- Final settlement on the contract shall not be made until the expiration of 30 days after completion of the notice
- The contractor must provide proof of publication of the notice to the awarding authority

Contracts Less than \$50,000 – Code of Alabama 1975, § 39-1-1(f)

For contracts of less than \$50,000, “the governing body of the contracting agency” shall give notice of completion by:

- Publishing it once in a newspaper of general circulation in the county and
- Posting notice on the agency’s bulletin board for one week

PAYMENT UPON PROJECT COMPLETION

Contracts of \$50,000 or More – Code of Alabama 1975, § 39-2-12(h)

Upon completion and acceptance of all work required, the contractor will be paid upon presentation of the following:

- A properly executed and duly certified voucher for payment.
- A release of all claims and claims of liens against awarding authority by virtue of contract
- Proof of advertisement of project completion

Payment is due 40 days after all of above requirements are met, and if the awarding authority fails to make payment, interest at the current amount charged by the state shall accrue.

Contracts Less than \$50,000 – Code of Alabama 1975, § 39-1-1(g)

Contractor shall be required to certify under oath that all bills have been paid in full. Final settlement may be made at any time after notice of completion of project has been posted for one week.

LEGAL ACTIONS AND PENALTIES

AUTHORITY TO BRING DAMAGE ACTION

A bidder who was awarded a public works contract *cannot* bring a civil action to force the awarding authority to pay out public funds for work and labor, materials supplied, or performance of contract if the contract was let or executed in violation of the law. Code of Alabama 1975, § 39-5-1. See also, AG’s *Opinion # 2002-126*.

- The certificate of compliance signed by awarding authority prior to execution of the contract creates rebuttable presumption that contract *was* let in compliance with the law

A civil action may be brought by the attorney general or an interested citizen pursuant to Code of Alabama 1975, § 39-5-3 to recover public funds paid under a public works contract let in violation of law.

- The action must be brought within three years of final settlement of the contract.

AUTHORITY TO BRING INJUNCTIVE ACTION – Code of Alabama 1975, § 39-5-4

An action to prevent letting or executing a public works contract in violation of the law may be brought within 45 days of an award of the contract under by any of the following:

- The attorney general
- A bona fide unsuccessful or disqualified bidder *or*
- Any interested citizen.
 - In an action brought by the unsuccessful bidder, he or she may recover reasonable bid preparation costs.

EFFECT OF ILLEGAL CONTRACT

Under Code of Alabama 1975, § 39-2-2(c), any contract entered into in violation of the public works law shall be null, void, and violative of public policy. See also, *AG's Opinion # 2002-126*.

- A willful violation of the public works law is a Class C felony

Collusion/Restraint of Free Competition – Code of Alabama 1975, § 39-2-6(g)

Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition shall render bids void and cause bidders or prospective bidders to be disqualified from submitting further bids on future lettings.

- A bidder or prospective bidder who willfully participates in such agreement or collusion shall be guilty of a felony and on conviction, fined not less than \$5,000 nor more than \$50,000 or imprisoned for not less than one nor more than three years

Advance Disclosure – Code of Alabama 1975, § 39-2-6(h)

Any disclosure in advance of the terms of a bid submitted in response to an advertisement for bids shall render the proceedings void and require readvertisement and award.

Fraudulent Certification – Code of Alabama 1975, § 39-5-2

Any awarding authority or its who willfully issues a false or fraudulent certificate of compliance shall be guilty of a felony punishable upon conviction by a fine of not less than \$5,000 nor more than \$50,000 or imprisonment for one to three years.

No Right to Payment – Code of Alabama 1975, § 39-5-6

The public works law provides that the courts shall not invoke or apply any legal or equitable principle which would allow a contractor to recover for work and labor done or materials furnished under a contract let in violation of the competitive bidding requirements of the law.

- An awarding authority is prohibited from paying an invoice for unapproved work performed which is in addition to original project price. *AG's Opinion # 2002-126*.

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SECTION 11

OPEN MEETINGS LAW

ALABAMA'S OPEN MEETINGS LAW

Alabama's Open Meetings Law, found at *Code of Alabama 1975, § 36-25A-1 et seq.*, was completely rewritten in 2005. The current law is quite detailed, providing definitions of important terms, and specifics regarding that a governing body can and cannot do with regard to meeting outside of the public arena.

The following is an overview of the important aspects of Alabama's "new" Open Meetings Law.

MEETING DEFINITIONS UNDER THE LAW

The following definitions are essential to an understanding and proper application of the Open Meetings Law.

Meeting – Section 36-25A-2(6)

For the purposes of the act, there are three separate circumstances which will constitute a meeting of the county commission (or a committee or subcommittee of the commission). Once any one of these conditions is met and the existence of a meeting is established, the county commission is required to comply with the provisions of the act – including posting of notice.

1. A pre-arranged gathering of a quorum of the commission required by law
 - This will be the "regular" county commission meeting
2. A pre-arranged gathering of a quorum of the commission where the body is authorized by law to exercise its powers
 - This will be a special or emergency meeting called under *Code Section 11-3-8*
 - This could also apply to the administrative or agenda-setting meeting, if the county commission routinely takes action during these meetings. Otherwise, these administrative meetings are more likely to fall under category 3 as explained below.
3. Any other gathering of a quorum of the commission (whether or not pre-arranged) where the body will *deliberate* on specific matters which the body believes it will vote on, either immediately following the gathering or at a later time
 - This will be any administrative or agenda-setting meeting at which the body does not take action but only deliberates the agenda for the up-coming regular commission meeting

- This will also be any informal session or occasion during which commissioners deliberate how they will vote on a specific issue that they expect to be addressed at a meeting of the body

Section 36-25A-2(6) also specifically provides that a meeting is **not** any of the following

- Social or other gatherings attended by a quorum of the body provided the members do not deliberate on matters the members believe the body will act on later
- Conventions, conferences, media events, and trainings attended by a quorum of the body provided the members do not deliberate on matters the members believe the body will act on later
- Gatherings of a quorum to meet with state or federal officials, such as legislators and state agency heads
- Gatherings of less than a quorum

The question of “deliberation” is the key to determining whether or not a “gathering” of the body becomes a “meeting” of the body. It is the clear intent of the law to draw a distinction between those occasions when members of the body gather to discuss matters and those occasions when the members of the body gather and “deliberate” on matters that are expected to come before the body for action at a future date.

Should members of a public body begin “deliberation” during these information gatherings, the gatherings will (by operation of law) become “meetings” for the purpose of this act and the public officials involved will have committed a violation of the law if no “notice” of the meeting was given by the governing body.

Deliberation – Section 36-25A-2(1)

The definition of “deliberation” is as follows:

“An exchange of information or ideas among a quorum of members of a governmental body intended to arrive at or influence a decision as to how the members of the governmental body should vote on a specific matter that, at the time of the exchange, the participating members expect to come before the body immediately following the discussion or at a later time.”

Deliberation does **not** include every conversation between members of the county commission regarding an issue which may or may not come before the body. Deliberation takes place when a number of members of the body constituting a quorum exchange information on how they intend to vote on a specific matter, and/or the appropriate action to take on a specific issue that is expected to come before the body.

County officials must be careful in their communication to ensure that, when a quorum is present, they do not “exchange” information about how they intend to vote or that they do not “exchange” information intended to influence how another member of the body will vote.

Quorum – Section 36-25A-2(12)

A meeting that results from the act of “deliberation” between members can occur only when a quorum of the body is involved. The most relevant portion of the definition of “quorum” under the act is as follows:

“Unless otherwise provided by law, a ‘quorum’ is a majority of the voting members of a governmental body.”

In most circumstances, a quorum of a county commission will be the number of members representing a quorum of the commission. Commissions which include the judge of probate or county-wide elected chairman as the presiding officer should include such presiding officer in the number of commission members when determining the number of persons necessary to constitute a quorum for the purposes of this act.

The definition of quorum also establishes a procedure that includes persons who have been elected or appointed to public positions but have not yet taken office in determining a quorum. County commissions are exempted from this requirement, but other public bodies associated with county government are not exempted.

Governmental Body – Section 36-25A-2(4)

The act requires governmental bodies to comply with the open meeting requirements. County commissions *and their committees and sub-committees* are included within this definition, along with virtually all other entities performing any governmental function which “expend or appropriate public funds. The term “governmental body” does not include any of the following:

- a. Legislative party caucuses or coalitions
- b. Alabama appellate or trial courts, except as required by the Constitution or any governed by rules of the Alabama Supreme Court
- c. Voluntary membership associations comprised of public employees, counties, municipalities, or their instrumentalities which have not been delegated any legislative or executive functions

It is important to note that any boards or commissions which are exempt from the old open meetings law (such as solid waste authorities and health care authorities) are also exempt from the current statute pursuant to *Section 36-25A-10*.

NOTICE REQUIREMENTS

The law establishing meeting and notice requirements for county commission meetings is not actually found in the Open Meetings Law, but in *Code of Alabama 1975, § 11-3-8*. Because of this separate notice requirement, county commissions are exempt from the notice requirements in the Open Meetings Law under *Code of Alabama 1975, § 36-25A-3* provided they follow the procedures set out in *Section 11-3-8*. All other governmental bodies must following the notice procedures found in *Section 36-25A-3*.

Section 11-3-8 requires that the commission notify those local media outlets that have made a written request for notification of commission meeting dates, times and locations. Counties that receive oral

requests for notification should advise the media that such requests should be made in writing. The written requests should be kept on file in the commission office.

Meetings of Commission Committees or Sub-Committees

The county commission may establish committees and sub-committees, but the Open Meetings Law specifically applies to such committees and sub-committees. Therefore, notice of committee meetings must be given in the same fashion as required for regular county commission meetings.

EXECUTIVE SESSIONS

WHAT IS AN EXECUTIVE SESSION?

An executive session is a meeting by the governmental body held in private “behind closed doors” to discuss a confidential matter under circumstances authorized by the new open meetings law. *Code of Alabama 1975*, § 36-25A-2(2) defines “executive session” as, “That portion of the meeting of a governmental body from which the public is excluded for one or more reasons prescribed in Section 36-25A-7(a).” A detailed description of these “reasons” is set out below.

When a governmental body meets in executive session, all members of the press, all members of the public, and all employees except those participating in the discussion are cleared from the meeting chambers so that the meeting can be held in private. Alternatively, the governmental body may vacate the meeting chambers and move to a room where the discussion can take place in private.

WHEN CAN AN EXECUTIVE SESSION BE CONVENED?

An executive session can *only* be convened during a properly-noticed meeting of the governmental body.

The definition of “meeting” includes circumstances other than a regular or special meeting where a quorum of the body gathers to deliberate matters expected to come before the body at a later date. However, this is *not* a meeting at which the body can take any official action or properly vote on any issue including whether or not to convene an executive session. Therefore, the body *cannot* properly convene an executive session during such a gathering.

HOW TO CONVENE AN EXECUTIVE SESSION?

Code of Alabama 1975, § 36-25A-7 sets out detailed steps for convening an executive session.

Motion to Convene

Once a quorum is present for conducting business, a motion to convene an executive session must be made. The motion must state the purpose for executive session and must identify with specificity which of nine permissible grounds for the calling the executive session applies.

Recorded Vote

There must be a recorded vote to convene the executive session, and the motion must pass by a majority of the members of the body present. The vote of each member must be recorded in the minutes. Therefore, this motion *cannot* be adopted by voice vote.

Statement on Reconvening “Open” Portion of the Meeting

Prior to calling the executive session to order, the chairperson shall state on the record whether the governmental body will reconvene after the executive session and, if so, the approximate time the body expects to reconvene.

Statement of Applicability

There are four circumstances where there is a special requirement that the governmental body be advised, *prior to convening the executive session*, that the executive session is necessary and/or proper to protect confidential information. This is explained in more detail in the discussion of grounds for executive session below.

WHO PARTICIPATES IN AN EXECUTIVE SESSION?

With a few exceptions, the Open Meetings Law does not directly address who can be present during an executive session of the governmental body. However, the attorney general has issued opinions on this issue under the old law, which likely apply under the new Act as well.

The general rule, at least with regard to discussions of “good name and character”, has been that only persons whose presence is needed in “an official capacity” should be present in an executive session. *See, e.g., AG’s Opinion # 99-247 and # 89-011.* However, there are exceptions, such as where due process requires that the person whose good name and character is at issue be given notice of the meeting and an opportunity to be heard. *See, e.g., AG’s Opinion # 89-190 and # 99-247.*

Therefore, when the governmental body conducts an executive session, all media and all members of the public shall be excluded from the meeting. Additionally, all employees and any other interested parties are excluded, unless their presence is essential to provide information to the body related to the issue being discussed. In this instance, the person providing information should only attend the portion of the executive session wherein he or she is providing information.

There are a few specific references in the Act to who should be present in an executive session convened for a particular purpose.

- Where the discussion involves pending or threatened litigation, the attorney representing the governmental body in the legal matter at issue *must* be present
- Where the discussion involves the sale or purchase of property, only the person representing the interests of the governmental body in the transaction may be present during the executive session
- If a member of the governmental body has a personal interest in a real estate transaction wherein the price will be discussed in executive session, he or she cannot attend or participate in the executive session concerning that transaction
- Where discussion of security matters involves critical infrastructure or critical energy infrastructure information, the owners and operators of the infrastructure must be given notice of the meeting and an opportunity to attend

HOW DOES THE GOVERNMENTAL BODY CONDUCT ITSELF DURING THE EXECUTIVE SESSION?

With the one limited exception related to administrative hearings, no deliberation and no votes can take place during the executive session. The executive session is for *discussion and information-gathering purposes only*, and must be concluded before the body begins to deliberate or make decisions about its course of action. In other words, when the body is ready to vote – or ready to debate how it should vote – the executive session must come to an end.

Proper Discussion

When an executive session is properly convened, the discussion must be limited to the subject matter for which the closed meeting is convened, even if there are other issues for which an executive session could properly be convened. Therefore, the body cannot decide once it is in the session that it wishes to discuss other matters which were not included in the motion to convene the session. Moreover, the body can *never* discuss in executive session any issue which is not covered by one of the nine grounds set out in the Act.

Terminating Executive Session

When the discussion authorized to be held in executive session has concluded and the body is ready to debate or vote on the issue, or to table any action, the executive session must be adjourned. If the governmental body is reconvening the “open” portion of the meeting, the chairperson shall call the open meeting back into order and the media and public shall be allowed to return for the remainder of the meeting. If the body has moved to a different location for the executive session, it shall return to the body’s original meeting location for the remainder of the meeting.

HOW TO PROTECT AGAINST BEING SUED OR FINED?

There are several ways that a member of a governmental body can be sued and/or fined for violating the executive session provisions of the Open Meetings Law. Some examples are:

- Voting to go into executive session *and* remaining in the executive session during a discussion on a subject not included in the motion to convene the executive session
- Intentionally violating the prohibition against deliberation or voting during the executive session
- Intentionally participating in an executive session on a subject for which there is no authority to convene an executive session
- Failing to follow the proper procedures for convening an executive session

WHAT ARE THE GROUNDS FOR EXECUTIVE SESSION?

There are nine permissible grounds for convening an executive session -- each written as narrowly as possible to ensure that an executive session is only allowed in very limited circumstances. It is important to become familiar with each ground, and to understand the limited applicability in each area.

It is also important to keep in mind that an executive session is *never required*, but is simply authorized under the limited circumstances set out below.

General Reputation and Character/Job Performance

A governmental body may convene an executive session to discuss:

1. The general reputation and character of an individual, defined as “Characteristics or actions of a person directly involving good or bad ethical conduct, moral turpitude, or suspected criminal activity, not including job performance.”
2. The physical condition of an individual
3. The professional competence of an individual, defined as “The ability of an individual to practice a profession within the profession’s acceptable standards of care and responsibility.”
 - A profession is a vocation requiring certification by the State or passage of a state licensing exam that may only be granted to or taken by persons who have completed at least 3 years of college-level education and obtained at least a college-level degree
4. The mental health of an individual
5. The job performance of a public employee who is not required by Alabama law to file a Statement of Economic Interests
 - Job performance is the observed conduct or actions of an employee or public official while on the job in furtherance of his or her assigned duties, and includes whether a person is meeting, exceeding, or failing to meet job requirements or whether formal employment actions should be taken, but does not include the general reputation and character of the person

Although the definition of “general reputation and character” specifically excludes job performance, with important exceptions noted below, the Act does authorize an executive session to discuss the job performance of public employees. However, the job performance of the following persons *cannot* be discussed in an executive session:

- Any elected or appointed public official
- Any appointed member of a state or local board or commission
- Any public employee required to file a Statement of Economic Interests with the Alabama Ethics Commission pursuant to *Code of Alabama 1975*, § 36-25-14

Additionally, the governing body cannot generally discuss the salary, compensation, and job benefits of these public officials and public employees in executive session.

Employee Disciplinary Matters

When expressly allowed by federal or state law, a governmental body may convene an executive session to consider the discipline or dismissal of, or to hear formal written complaints or charges brought against a public employee, a student at a public school or college, or an individual, corporation, partnership, or other legal entity subject to the regulation of the governmental body

This ground for executive session will have very limited applicability for county government. There must be a specific federal or state law allowing for a “closed-door” meeting in order for this to apply.

Pending or Threatened Litigation/Mediation and Arbitration

A governmental body may convene an executive session to discuss with their attorney:

- The legal ramifications of and options regarding pending litigation **or**
- Controversies where litigation is imminently likely if the body pursues a proposed course of action

A governmental body may also convene an executive session to meet or confer with a mediator or arbitrator regarding any litigation or decision concerning matters within the jurisdiction of the governmental body involving another party, group, or body.

Before convening an executive session under this ground, the governmental body must be advised by an Alabama attorney in a written opinion or an oral declaration entered into the minutes of the meeting that the planned discussion fits into this category.

The executive session is authorized for discussion *only*. The body may meet with the attorney in private, wherein he or she can explain things like the status of the case, the legal issues involved, and the applicable laws at play. The body can ask the attorney questions about the case and the likely or possible consequences of taking certain actions. However, the body *cannot* deliberate while in executive session.

Code of Alabama 1975, § 36-25A-7(a)(3) specifically states that “if any deliberation begins among the members of the governmental body regarding what action to take relating to pending or threatened litigation based upon the advice of counsel the executive session shall be concluded and the deliberation shall be conducted in the open portion of the meeting or the deliberation shall cease.”

It is also important to keep in mind that this provision only authorizes the executive session to discuss legal ramifications or options *with the body’s attorney*. The law does not allow members of the body to meet alone in executive session to discuss legal matters, or to meet with other parties involved or with members of the county commission staff.

Security Matters

A governmental body may convene an executive session to discuss each of the following security matters if public disclosure could reasonably be expected to be detrimental to public safety or welfare:

- Security plans, procedures, assessments, measures, or systems
- The security or safety of persons, structures, facilities, or other infrastructures
- Critical energy infrastructure information, as defined by federal law

The only specific requirement for use of an executive session under this provision is that, when the discussion involves critical infrastructure or critical energy infrastructure information, the owners and operators of such infrastructure shall be given notice and an opportunity to attend the session.

Criminal Investigations

A governmental body may convene an executive session related to criminal investigations under the following circumstances:

- To discuss information that would disclose the identity of an undercover law enforcement agent or informer
- To discuss a criminal investigation of someone who is not a public official where there are allegations or charges of specific criminal misconduct
- To discuss whether or not to file a criminal complaint

Before convening an executive session under this ground, the governmental body must be advised in writing or by oral declaration entered into the minutes of the meeting that the discussions would imperil effective law enforcement if disclosed outside of an executive session from one of the following:

- A law enforcement officer with authority to make an arrest
- A district attorney or assistant district attorney
- The attorney general or an assistant attorney general

Purchase or Sale of Property

A governmental body may convene an executive session to discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property. Only persons representing the interests of the governmental body in the transaction may be present during the executive session.

The act specifically states that this provision authorizing an executive session shall not apply if:

- Any member of the governmental body has a personal interest in the transaction and attends or participates in the executive session **or**
- A condemnation action has been filed to acquire the real property involved

This closed door session may only be held for discussion of the price to offer or accept. *Code of Alabama 1975*, § 36-25A-7(a)(6) states that, “the material terms of any contract to purchase, exchange, or lease real property shall be disclosed in the public portion of a meeting prior to the execution of the contract.”

Matters of Commerce or Trade

A governmental body may convene an executive session to discuss “preliminary negotiations” involving matters of trade or commerce in which the governmental body is in competition with private individuals

or entities or other governmental bodies, either in Alabama, in other states, or in foreign nations. The Act does not define “preliminary negotiations”.

An executive session may also be convened to discuss matters or information as defined or described in the Alabama Trade Secrets Act (*Code of Alabama 1975*, § 8-27-1 *et seq.*). Under *Code of Alabama 1975*, § 8-27-2, a “trade secret” is defined as information that:

- a. Is used or intended for use in a trade or business;
- b. Is included or embodied in a formula, pattern, compilation, computer software, drawing, device, method, technique, or process;
- c. Is not publicly known and is not generally known in the trade or business of the person asserting that it is a trade secret;
- d. Cannot be readily ascertained or derived from publicly available information;
- e. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and
- f. Has significant economic value.

Before convening an executive session under this ground, the governmental body must be advised in writing or by oral declaration entered into the minutes of the meeting that the discussions:

- Would have a detrimental effect upon the competitive position of a party to the negotiations if disclosed outside of an executive session, or
- Would have a detrimental effect upon the location, retention, expansion, or upgrading of a public employee or business entity in the area served by the governmental body if disclosed outside of an executive session, or
- Will involve matters or information of the character defined or described in the Alabama Trade Secrets Act

This statement must come from someone involved in the recruitment or retention effort or with personal knowledge that the discussions would disclose information protected by the Alabama Trade Secrets Act.

Public Employee Negotiation Strategy

A governmental body may convene an executive session to discuss strategy in preparation for negotiations between the governmental body and a group of public employees. This would generally apply where the governmental body is negotiating with a union or other employee interest group, and as such, will have limited applicability for county government.

Before convening an executive session under this ground, the governmental body must be advised in writing or by oral declaration entered into the minutes of the meeting from a person representing the interests of the governmental body in the negotiations that the discussions would have a detrimental effect upon the negotiating position of the governmental body if disclosed outside of an executive session.

Administrative Hearing Matters

If the governmental body is acting as a “quasi-judicial body”, the body may convene an executive session to deliberate and discuss evidence or testimony presented during a public or contested case hearing, provided that the body either:

- Votes upon its decision in an open meeting **or**
- Issues a written decision which may be appealed to a body which has the authority to conduct a hearing or appeal which is open to the public

There is no clear definition of “quasi-judicial body”, but in essence, it means that the governmental body is making judicial decisions, such as in the case of a personnel hearing conducted by or before the governmental body or a committee created by the body. This will likely have limited applicability for county governments. However, this provision would apply in any instance where the county commission conducts an administrative hearing regarding disciplinary or other personnel issues. It would also apply to any personnel board created by the county commission or pursuant to local law.

This provision differs from the other eight grounds for executive session in that it does allow the body to deliberate in the closed session provided that the body will vote in open session or issue a written decision which could be appealed to a body which would conduct an open hearing. In fact, the governmental body acting as a quasi-judicial body can actually vote in the executive session if there will be a written appealable decision.

MISCELLANEOUS PROVISIONS

Electronic Communications

Code of Alabama 1975, § 36-25A-1(a) prohibits the utilization of “electronic communications” to “circumvent any of the provisions” of the law. Therefore, efforts by public officials to use the telephone, e-mail or Internet chat rooms to avoid compliance with the Open Meetings Law will constitute a violation of the law.

Secret Ballot

Code of Alabama 1975, § 36-25A-5(a) prohibits vote by secret ballot unless otherwise directed by the Constitution or authorized by state law applicable to the governing body in effect on the effective date of the Open Meetings Law (October 1, 2005).

Rules of Procedure

Code of Alabama 1975, § 36-25A-5(a) also provides that all meetings shall be conducted according to the governing body’s adopted rules of parliamentary procedure. All counties should have written rules of procedure in effect as of October 1, 2005, and must be careful to follow all adopted procedures. A copy of a suggested “Rules of Procedure” is available at the ACCA website (www.acca-online.org).

Recording of Meetings

Code of Alabama 1975, § 36-25A-4 requires that accurate records of all meetings be maintained, including date, time, place, members present or absent, and actions taken. These records shall become

public record and made available to the public as soon as practicable after approval. This means that the minutes of the meeting must be made available after they have been approved by the county commission, but there is no requirement to release a draft of the minutes or release them prior to the commission's approval.

Code of Alabama 1975, § 36-25A-6 allows for the recording of a meeting of a governmental body by any person in attendance at the meeting, provided the recording does not disrupt the conduct of the meeting. The governmental body may adopt reasonable rules for recording of the proceedings. A sample policy for recording proceedings can be found at the ACCA website (www.acca-online.org).

ENFORCEMENT OF THE LAW

WHAT KIND OF ACTION WILL BE BROUGHT FOR VIOLATION?

The Open Meetings law is a civil statute, with civil penalties imposed for violation of its provisions. The party or parties bringing the suit against members of a governmental body may seek any of the following remedies:

- Monetary penalties against each member found to have violated the Act
- Preliminary injunction or temporary restraining order preventing the body from proceeding with certain meeting(s) or activities pending final outcome of case
- Declaratory judgment whereby the court will issue an order regarding whether or not the conduct or action(s) of the body is proper under the Act
- Permanent injunction prohibiting the governmental body from certain conduct or action(s)

WHO CAN BRING THE ACTION?

The lawsuit can be filed in the circuit court of the county where the governmental body is located by the attorney general, the district attorney, any media organization, or any Alabama citizen. *Code of Alabama 1975*, § 36-25A-9(a) specifically provides that suit **cannot** be brought by a member of the governmental body against other members of the body on which he or she serves. This would not prevent a member of the governmental body from testifying against other members regarding an alleged violation. However, if a member of the body participates in the alleged illegal activity, he or she **must** be named in the lawsuit, and may be subject to payment of the fines if the alleged violation is proven in court.

WHO GETS SUED?

The lawsuit is filed against all members of the governmental body who are alleged to have participated or remained in attendance at an alleged meeting held in violation of the Act.

- The lawsuit is brought against the members in their official capacity
- There is no provision for an action against employees or others in the meeting

WHAT ARE THE GROUNDS FOR BRINGING SUIT?

There are four possible grounds for bringing suit, and the Act requires that a person filing the lawsuit include in the initial complaint the specific violation or violations alleged to have taken place. Additionally, the final order from the court must state with specificity the ground or grounds upon which the ruling is based, which, among other things, will assist the members and the county attorney in determining whether there are grounds for appeal.

The grounds for filing suit against members of the governmental body are set out below.

1. The members of the governmental body named in the lawsuit “disregarded the requirements for proper notice of the meeting” as required by the Act.

This would cover the circumstance where the governmental body set a meeting but did not post the notice as required by law or did not provide notice to members of the media who had filed a written request for notice of all meetings. This would not include the situation where an employee failed to follow the governmental body’s instructions to give notice or where a posted notice had been removed from the bulletin board without the governmental body’s knowledge.

To prevail on this violation, the plaintiff would have to show that the members of the governmental body knew or should have known that they were required by law to post notice and either intentionally failed to give the notice required or failed to take reasonable steps to ensure that notice was properly given.

2. The members of the governmental body named in the lawsuit “disregarded provisions of the Act” during the open portion of the meeting”.

This would cover any claim that the public officials disregarded specific provisions of the law, such as:

- Voting by secret ballot
- Refusing to allow a member of the press or general public to record the meeting under reasonable circumstances
- Failing to conduct the meeting pursuant to the body’s rules of procedure
- Failing to follow the procedures for convening an executive session

This provision does *not* cover any activity which takes place during an executive session, which actions must be proved as explained below.

3. The members of the governmental body named in the lawsuit “voted to go into executive session and while in executive session discussed matters other than those subjects included in the motion for executive session”.

This violation would occur if the body went into executive session to discuss one issue, and while in executive session discussed subjects other than those covered by the motion to convene the executive session. However, this provision would *not* cover the circumstance where the body deliberated during an executive session. That circumstance is covered by the fourth possible ground for suit, which is set out below.

4. The members of the governmental body named in the lawsuit “intentionally” violated a provision of the Act not covered by one of the other three grounds.

This ground would apply where the governmental body intentionally failed to take certain action required by the Act, such as:

- Refusing to adopt parliamentary rules of procedure
- Refusing to maintain an accurate record of the meeting
- Refusing to include in the record of the meeting, the date, time, place, members present or absent, and action taken at the meeting
- Refusing to make the record of the meeting available to the public as soon as practicable after approval of the minutes
- Knowingly deliberating or voting during an executive session
- Using electronic communications to circumvent the law

The “failure to act” involved here must be intentional. While this will likely be an issue for the court to decide, this would not cover a circumstance where the governmental body was acting in good faith, but did not realize what was required or did not realize that the requirements had not been met.

WHAT SHOULD MEMBERS OF THE GOVERNING BODY DO WHEN SUED?

Code of Alabama 1975, § 36-25A-9(a) requires that the defendants file their initial response within seven business days of personal service of the lawsuit. Therefore, when a member of the governmental body is served with legal papers, he or she must contact the county attorney and the county’s insurance carrier *immediately*. In the event that service is made to the county commission office, and the members of the body named are not present at the office, the county administrator should contact each member as soon as possible and forward the legal papers to the county attorney immediately upon receipt.

The law provides that a preliminary hearing on the lawsuit must be held no later than 10 business days after the defendants’ initial response, or if no initial response is filed, no later than 17 business days after the lawsuit is filed. The purpose of this hearing is for the plaintiff to convince the court that there is enough evidence to proceed with a trial on the allegations made in the lawsuit. Therefore, the members of the governmental body must be prepared to defend their actions early in the case.

This lawsuit is complicated and is designed to move very quickly, so the county attorney must be involved from the outset. Unless a longer period is agreed to by the parties and the court, a final order on the merits of the case must be issued by the court within 60 days after the preliminary hearing. Therefore, each member of the county commission, and the county attorney, must move quickly to prepare the county’s defense.

WHAT ARE THE PENALTIES UNDER THE LAW?

Code of Alabama 1975, § 36-25A-9(g) sets out monetary penalties to be paid where the court determines that there has been a violation of the open meetings law. Under this section, each member of the governmental body found to have violated the Act can be assessed a penalty of up to \$1000 or one-half of his or her monthly salary for service on the body, whichever is less. ***Fines can be assessed for each separate violation of the Act.***

Any penalties must be paid personally by each member of the governing body found to have violated the law. This means that the county commission cannot pay the fine on behalf of the members and cannot reimburse the members for any fines paid.

Where the violations are related to improper discussion during an executive session, the monetary penalties can ***only*** be assessed against members who voted to go into executive session ***and*** remained in the executive session during a discussion determined by the court not to have been authorized by the Act.

WHO PAYS THE LEGAL FEES?

Code of Alabama 1975, § 36-25A-9(h) states that a governmental body may pay or provide for the legal expenses of present or former members of the body named as defendants in a lawsuit filed for violation of the Act.

However, the Act does not have any provision requiring the members of the governmental body to pay the attorney's fees of the person or entity filing suit alleging violation of the Act. It also does not make any provision allowing the governmental body or the members sued to be reimbursed their legal fees from the plaintiff in the event the Court finds that there was no violation.

HOW DOES THE VIOLATION AFFECT ACTIONS OF THE BODY?

Code of Alabama 1975, § 36-25A-9(f) provides that the court may invalidate any action taken during a meeting held in violation of the Act if:

- The lawsuit is filed within 21 days of the date when the action is made public,
- The violation was not the result of mistake, inadvertence, or excusable neglect, and
- Invalidating the action taken will not unduly prejudice third parties who have acted in good faith reliance upon the challenged action of the governmental body

However, the court cannot invalidate any action taken at an open meeting conducted in a manner consistent with the Act because of a violation which occurred prior to the meeting, which would include the failure to post notice or take other actions required under the law before the meeting.

IS THERE ANY IMMUNITY PROTECTION UNDER THE ACT?

Code of Alabama 1975, § 36-25A-8 provides limited immunity protection for statements made during a meeting conducted in compliance with the Act by members of the governmental body ***or*** by employees of that body. In essence, a person cannot sue any governmental official or employee for statements made during a meeting of the body, ***if*** those statements are made during a matter pending before the body.

The immunity protection granted *only* applies to statements made during a meeting which relate to a matter pending before the governmental body at the time the statement is made. It does *not* authorize members of the county commission or county employees to use the county commission meeting as a protected forum to make inappropriate or unkind statements about other members of the body or any other persons.

IS THERE A TIME LIMIT FOR BRINGING SUIT?

The Act states that the a lawsuit alleging a violation of the law must be brought within sixty (60) days of the date that the person or entity bringing suit knew or should have known of the activity which is believed to have been a violation of the Act.

Additionally, the law provides that the lawsuit must be filed no later than within two years of the alleged violation.

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SECTION 12

THE SAFE PROGRAM

SAFE PROGRAM

The Security for Alabama Funds Enhancement, or SAFE Program, is found in *Title 41, Chapter 14A, Code of Alabama 1975*, to provide a uniform program for the security of public funds deposited with financial institutions in the State of Alabama that qualify to serve as depositories for public funds.

All banks or savings and loans in the State of Alabama accepting any deposits of public funds are required by the SAFE Law to participate in the program. This participation is to ensure those funds are covered by the pledging of eligible collateral to the State Treasurer for the SAFE collateral pool. Likewise, the law also requires all public depositors, such as county administrators and officials, to place their public deposits with one or more financial institutions that have met all qualifications as public depositories under the Program.

Rules of the Program have been developed to provide the details for the operation of the Program. The Rules, legislation, blank forms, and other information are on the Treasury website, www.treasury.alabama.gov under the “SAFE” section.

The SAFE Board of Directors is charged with the responsibility and authority to assess and manage the sufficiency of the collateral pool. The board meets at least quarterly and is comprised of 8 members. The Treasurer serves as a permanent member and Chairman. The Superintendent of Banks also serves as a permanent member with the remaining six members including 4 representatives from the banking industry, one representative from the League of Municipalities, and one representative from the Association of County Commissions of Alabama. Mr. Bill Lamb, Finance Director for the Tuscaloosa County Commission serves as the county representative on the SAFE Board.

For a bank or savings/loan to become a member in the SAFE Program they must be:

- (1) Organized and existing under Alabama or any other state law,
- (2) Be in the business of making loans and accepting deposits in Alabama,
- (3) Have FDIC coverage.

The requirement that an institution have FDIC coverage means that credit unions are not eligible to qualify as a SAFE public depository because they are not covered under FDIC.

Under the SAFE Rules, banks must meet several requirements to remain in compliance with the program. Of those, two are of particular interest to county administrators.

First, financial institutions are required prior to November 1st of each year to provide each public depositor with a report indicating which accounts have been designated as “public deposits”. You, as a public depositor, have 60 days to confirm the information. It is suggested that you keep these statements as documentation to your auditors that your accounts are properly included in the SAFE Program.

Second, member institutions are required to make every effort to provide a code or wordage, such as “SAFE Deposit”, on public deposit account statements so public depositors can verify that their accounts have been and continue to be properly identified in the depository’s records.

What are the county administrator’s responsibilities as a “public depositor” under SAFE?

First, you should ensure that your deposits are placed in a Qualified Public Depository (QPD). This can be done by asking the bank representative to provide a copy of their “QPD Certificate” issued at the time they joined the SAFE Program. The certificate will have the State seal and be signed by the Treasurer. Additionally, all banks in good standing with SAFE are listed on the Treasury website www.treasury.alabama.gov, click SAFE.

Next, you should notify your bank representative that the deposits are public, and suggest that the banking institution include a code or wordage such as “SAFE Deposit” on the bank statement identifying the deposits as such. If the bank is uncertain about whether the deposits meet the definition provided in the SAFE law, the depositor should work with the bank to document how the deposits meet the definition.

Finally, each year verify all deposit account information on the report issued by the QPD as of September 30TH identifying your accounts designated as “public deposits”.

In the event of a default by a QPD, public depositors should submit to the Treasurer a Public Deposits Claim Form and Agreement available on the Treasury website. This information must be submitted within one hundred twenty (120) calendar days after the date of the official notification from the Treasurer.

The SAFE Program provides a three-tiered “insurance” program for your deposits.

FDIC acts as the first tier in the event a bank defaults by re-paying public depositors up to \$100,000 on their loss.

SAFE would step in next by liquidating all of the securities the defaulting bank had pledged to the program. The proceeds from sale of the securities would be applied to claims submitted by public depositors not completely covered by FDIC.

The third tier is provided by all the remaining member institutions of the SAFE Program. Under the SAFE Law, each member institution signs a contingent liability agreement to join the program. The heart of the agreement is the contingent liability language requiring each participating financial institution to “stand good” for all public deposits in the pool should another institution member default or go bankrupt. In the event of a bank default in which FDIC and SAFE’s sale of the institution’s collateral does not cover all claims the remaining institutions would be assessed a portion of the loss to ensure no public deposits are lost.

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SECTION 13

MISCELLANEOUS LEGAL ISSUES

COUNTY COMMISSION MEETING PROCEDURES

As part of the County Modernization Act (Act No. 2007-488), there are now several important statutory provisions related to procedures for a county commission meeting. These provisions apply in all counties and supersede any local laws in effect prior to the passage of the new Act.

Organizational Meeting

Code of Alabama 1975, § 11-3-1 provides that the term of office for a county commissioner begins at 12:00 a.m. on the second Wednesday following the general election. An organizational meeting of the county commission **must** be held on this date. Additionally, the county commission **cannot** meet between the election and this first meeting date, unless there is an emergency declared by unanimous vote of the entire county commission membership.

Establishment of Meeting Dates

Code of Alabama 1975, § 11-3-8 provides that the county commission will establish its regular meeting schedule at this meeting, which schedule will remain in effect until and unless changed by later action of the county commission. The regular meeting date, time and location must be posted in the courthouse and provided to members of the news media who have filed a written request to be advised of all meetings. It is not necessary to contact members of the media in advance of your regular commission meeting once the regular date has been established and the media has been initially notified.

Holidays

When the regular meeting date falls on a holiday, the county commission may meet “on any day” of that week or on another date or time established by the commission. As required in *Section 11-3-8*, this substitute meeting date must be posted in the courthouse **at least five days** before the meeting. The commission must notify the members of the media who have filed a written request with the commission for such notification.

Special Meetings

Special meetings of the commission can be called **with five days notice** upon written request of a majority of the members of the county commission. The time, date and location of the special meeting **along with the “purpose for and agenda of the meeting”** must be posted in the courthouse at least five days before the meeting. The commission must notify the members of the media who have filed a written request with the commission for such notification. **Items that are not listed on the agenda may not be considered during the special meeting.**

Emergency Meetings

The commission chairman may call an emergency meeting. The five day notice requirement does not apply. However, the meeting time, date and location should be posted in the courthouse. The commission must notify the members of the media who have filed a written request with the commission

for such notification. Items that are not part of the “emergency” resulting in the calling of the meeting may not be added to the agenda for action during the emergency meeting.

Establishing a Quorum

Code of Alabama 1975, § 11-3-7 establishes that a quorum of the county commission for conducting business is a majority of the members, including the chair. This applies even where the chair is the probate judge or is elected countywide.

The Open Meetings Law also defines quorum for the purposes of application of that law. *Code of Alabama 1975, § 36-25A-2(12)* states that “Unless otherwise provided by law, a ‘quorum’ is a majority of the voting members of a governmental body.”

Voting

Code of Alabama 1975, § 11-3-7 also provides that no matter before the county commission shall be voted on and approved unless a quorum is present at the time of voting and the matter is approved by majority vote of those “*present and voting*”.

This provision does not apply where Alabama law provides otherwise – such as where a statute specifically requires a supermajority or unanimous vote.

Code of Alabama 1975, § 11-3-20 provides that the chair of the county commission shall only vote in case of a tie, unless he or she is a district commissioner only serving as chair. In this instance, the chair may vote on all matters. In all circumstances, the chair may only vote once.

The Open Meetings Law prohibits voting by secret ballot. See, *Code of Alabama 1975, § 36-25A-5(a)*.

Chairperson Presides

Code of Alabama 1975, § 11-3-20 provides that the chair of the county commission presides over all meetings. The county commission may elect a vice chair to serve in the absence of the chair. In the alternative, the commission may authorize the chair to appoint a vice chair.

General Administrative Functions of The County Commission and Chief Administrative Officer

Office Closings

The county commission is responsible for all county property, and as such, is responsible for the operation of the county courthouse and other county buildings. *See, e.g., Code of Alabama 1975, §§ 11-3-11(a)(1); 11-14-4; 11-14-9. Code of Alabama 1975, § 11-1-8* provides that the county commission is authorized to close the courthouse and/other county buildings for legal holidays or “for other special circumstances deemed necessary or appropriate”.

The law makes clear that any deadlines missed due to such closing are extended until the first day the office is reopened.

The county commission establishes the holiday schedule for county offices and, while not required to, many counties follow the state legal holiday schedule established by state law and found in Code of Alabama 1975, § 1-3-8.

Publication of Financial Report

Code of Alabama 1975, § 11-3-21 requires publication of a report of the county’s financial status. Beginning October 1, 2007, this report need only be published once a year -- after the closing of the previous fiscal year but no later than December 31.

Section 11-3-21 provides an itemization of the minimum amount of information to be included in the published report:

- (1) An itemized report of the county’s receipts by source and disbursements by functions or purposes or both.
- (2) The outstanding indebtedness of the county of any kind or character.
- (3) The schedule by years for retiring indebtedness, separating funded indebtedness from unfunded indebtedness.
- (4) The resources available to pay unfunded indebtedness

A standardized form itemizing the information to be published has been developed. Counties should have a downloadable version of the form. Contact the ACCA Office if your county does not have the form.

Insurance for Employees and Officials

Code of Alabama 1975, § 11-91-1 *et seq.* authorizes the county commission to provide health and other insurance for all county employees and officials. *See, Code of Alabama 1975, § 11-91-1 and § 11-91-2* for the authority to contract for these purposes.

Code of Alabama 1975, § 11-91-3 provides that the county commission may determine the class or classes of employees and officials entitled to participate, although counties must also follow rules established by the insurance carrier. Code of Alabama 1975, § 11-91-4 allows the county commission to

determine what portion of insurance premiums is to be paid by the employer and the employee or official, and to make appropriate deductions from salaries for such payments.

However, the payment of insurance premiums has been determined by the Supreme Court of Alabama to be compensation. Therefore, a county cannot decide to pay the premium of a county official (county commissioner, sheriff, etc.) during a term of office. While the official may pay the full premium and be covered under a county policy, the county commission can only agree to pay such premiums at the beginning of an official's term of office. *See, e.g., AG's Opinion # 2002-237.*

Code of Alabama 1975, § 11-91-8 provides that the county commission may allow retired employees to participate in the county's health insurance program, and may pay all or a part of the cost of the premiums.

Duties of County Commission Chair and Chief Administrative Officer

County Administrator/Chief Administrative Officer

Code of Alabama 1975, § 11-3-18 authorizes the county commission to employ a chief administrative officer (also known as the county administrator). There is no requirement in the Act that the county commission fill this position. Any local law establishing this or a different administrative position, or any local law providing for the duties or selection of this employee will control over the general law.

Section 11-3-18 does provide specific duties which shall be the responsibility of the chief administrative officer, if employed. Those duties are as follows:

- (1) Keep and record minutes of all meetings of the county commission
- (2) Prepare and present to the commission chair for proper execution all appropriate documents (such as resolutions, orders, contracts, or directives) that are necessary to carry out the actions of the county commission.
- (3) Maintain at all times a detailed record of the financial status of the county which shall be kept up to date at all times and shall reflect the true status of all outstanding obligations of the county and the estimated revenue for the current fiscal year.
- (4) Perform any other duties with reference to accounting, auditing claims, issuing warrants, and supplying the county commission with information as the county commission may deem necessary for the administration of the financial affairs of the county.
- (5) Serve as signatory for the county on all appropriate documents as authorized or directed by policy adopted by resolution of the county commission.
- (6) Perform any other duties as may be assigned from time to time and under procedures established by the county commission.

County Commission Chair

Code of Alabama 1975, § 11-3-20 sets out some of the administrative responsibilities of the county commission chairperson. Those itemized duties are:

- (1) To preside over county commission meetings
- (2) To ensure that an accurate record of all meetings is made and kept as required by law
- (3) Except where the chief administrative officer has been assigned the responsibility, to serve as signatory for the county commission on all appropriate documents as are necessary to carry out the actions of the county commission.
- (4) To oversee and supervise the upkeep of the financial records of the county.
- (5) Except where otherwise provided, to issue and sign all warrants.

- (6) To perform other duties as required by law or determined appropriate by the county commission pursuant to resolution duly adopted by a majority of the members of the county commission.

Section 11-3-20 provides that the vice chair shall perform any or all of these duties in the absence of the chair.

It is important to keep in mind that the list of duties for the chief administrative officer and for the county commission chair are *not* all-inclusive lists – both Code sections provide for the assignment of additional or other duties.

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SECTION 14

NOTES TO THE FINANCIAL STATEMENTS

For the Year Ended Sept. 30, 2006

County Commission Example

Note 1 – Summary of Significant Accounting Policies

The financial statements of the Example County Commission (the "Commission") have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles. The more significant of the government's accounting policies are described below.

A. Reporting Entity

Example County is a general purpose local government governed by separately elected commissioners. The accompanying financial statements present the activities of the Example County Commission (the primary government). Generally accepted accounting principles (GAAP) require that the financial statements present the Commission (the primary government) and its component units. Component units generally are legally separate entities for which a primary government is financially accountable. Financial accountability ordinarily involves meeting the following criteria: 1) the primary government appoints a voting majority of the organization's governing body and the primary government is able to impose its will upon the potential component unit, or there is a possibility that the potential component unit may provide specific financial benefits or impose specific financial burdens on the primary government or 2) the potential component unit is fiscally dependent on the primary government. The Example County Commission does not have any component units as of September 30, 2006

B. Government – Wide and Fund Financial Statements

Government – Wide Financial Statements

The statement of net assets and the statement of activities display information about the Commission. These statements include the financial activities of the primary government, except for fiduciary activities. Eliminations have been made to minimize the double counting of internal activities. These statements distinguish between the governmental and business-type activities of the Commission. Governmental activities generally are financed through taxes, intergovernmental revenues, and other nonexchange transactions. Business-type activities are financed in whole or in part by fees charged to external parties.

The statement of activities presents a comparison between direct expenses and program revenues for each segment of the business-type activities of the Commission and for each function of the Commission's governmental activities. Direct expenses are those that are specifically associated with a program or

function and, therefore, are clearly identifiable to a particular function. The Commission does not allocate indirect expenses to the various functions. Program revenues include (a) charges to customers or applicants who purchase, use or directly benefit from goods, services, or privileges provided by a given function or program and (b) grants and contributions that are restricted to meeting the operational or capital requirements of a particular program. Revenues that are not classified as program revenues, including all taxes, are presented as general revenues.

Fund Financial Statements

The fund financial statements provide information about the Commission's funds, including fiduciary funds. Separate statements for each fund category – governmental, proprietary, and fiduciary – are presented. The emphasis of fund financial statements is on major governmental and enterprise funds, each displayed in a separate column. All remaining governmental and enterprise funds are aggregated and reported as nonmajor (other governmental) funds.

The Commission reports the following major governmental funds:

- ◆ **General Fund** – The general fund is the primary operating fund of the Commission. It is used to account for all financial resources except those required to be accounted for in another fund. The Commission primarily received revenues from collections of property taxes and revenues collected by the State of Alabama and shared with the Commission.
- ◆ **Gasoline Tax Fund** – This fund is used to account for the expenditure of the seven-cent State gasoline tax revenue for construction, improvement, maintenance and supervision of highways, bridges, and streets.
- ◆ **Public Buildings, Roads and Bridges Fund** – This fund is used to account for the expenditures of special county property taxes for building and maintaining public buildings, roads and bridges.
- ◆ **Reappraisal Fund** – This fund is used to account for property taxes and other revenues required to be expended for the costs of the property reappraisal program.
- ◆ **2004 General Obligation Warrants Construction Fund** – This fund is used to account for financial resources to be used for the acquisition and/or construction of major capital facilities. The funds may also be used to repair and improve existing major capital facilities.

The Commission reports the following major enterprise funds:

- ◆ **Water System Fund** – This fund is used to account for the cost of providing water service to county residents.
- ◆ **Solid Waste Fund** – This fund is used to account for the cost of providing solid waste service to county residents.

The Commission reports the following fund types in the other governmental funds' column:

Other Governmental Funds:

- ◆ **Special Revenue Funds** – These funds are used to account for the proceeds of specific revenue sources (other than those derived from special assessments or dedicated for major capital projects) requiring separate accounting because of legal or regulatory provisions or administrative action.
- ◆ **Debt Service Funds** – These funds are used to account for the accumulation of resources for, and the payment of, the Commission’s principal and interest on governmental bonds.
- ◆ **Capital Projects Funds** – These funds are used to account for financial resources to be used for the acquisition or construction of major capital facilities (other than those financed by proprietary funds).

The Commission reports the following fiduciary fund type:

Fiduciary Fund Type

- ◆ **Private-Purpose Trust Funds** – These funds are used to report all trust agreements under which principal and income benefit individuals, private organizations, or other governments.

C. Measurement Focus, Basis of Accounting and Financial Statement Presentation

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting, as are the proprietary fund and fiduciary fund financial statements. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred, regardless of the timing of related cash flows. Nonexchange transactions, in which the Commission gives (or receives) value without directly receiving (or giving) equal value in exchange, include property taxes, grants, entitlements, and donations. On an accrual basis, revenue from grants, entitlements, and donations is recognized in the fiscal year in which all eligibility requirements have been satisfied. Revenue from property taxes is recognized in the fiscal year for which the taxes are levied.

As a general rule the effect of interfund activity has been eliminated from the government-wide financial statements. Exceptions to the general rule are charges between the government’s solid waste and water system functions and various other functions of the government. Elimination of these charges would distort the direct costs and program revenues reported for the various functions concerned.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the Commission considers revenues to be available if they are collected within sixty (60) days of the end of the current fiscal year. Expenditures are recorded when the related fund liability is incurred, except for principal and interest on general long-term debt, which are recognized as expenditures to the extent they have matured. General capital asset acquisitions are reported as expenditures in governmental funds. General long-term debt issued and acquisitions under capital leases are reported as other financing sources.

Proprietary funds distinguish operating revenues and expenses from nonoperating items. Operating revenues and expenses generally result from providing services and producing and delivering goods in connection with a proprietary fund's principal ongoing operations. The principal operating revenues of the Commission's enterprise funds are charges to customers for sales and services. Operating expenses for enterprise funds include the cost of sales and services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

Under the terms of grant agreements, the Commission funds certain programs by a combination of specific cost-reimbursement grants, categorical block grants, and general revenues. Thus, when program expenses are incurred, there are both restricted and unrestricted net assets available to finance the program. It is the Commission's policy to first apply cost-reimbursement grant resources to such programs, followed by general revenues.

Private-sector standards of accounting and financial reporting issued prior to December 1, 1989, generally are followed in both the government-wide and proprietary fund financial statements to the extent that those standards do not conflict with or contradict guidance of the Governmental Accounting Standards Board. Governments also have the option of following subsequent private-sector guidance for their business-type activities and enterprise funds, subject to this same limitation. The Commission has not elected to follow subsequent private-sector guidance.

D. Assets, Liabilities, and Net Assets/Fund Balances

1. Deposits and Investments

Cash and cash equivalents include cash on hand and demand deposits. For the purposes of the statement of cash flows, the proprietary fund type considers all highly-liquid investments with a maturity of three months or less when purchased to be cash equivalents.

State statutes authorize the County Commission to invest in obligations of the U. S. Treasury and securities of federal agencies and certificates of deposit. Investments consist of certificates of deposit and are reported at cost.

2. Receivables

Sales tax receivables are based on the amounts collected within 60 days after year-end. Sales tax receivables consist of taxes that have been paid by consumers in September. This tax is normally remitted to the Commission within the next 60 days.

Millage rates for property taxes are levied at the first regular meeting of the Commission in February of each year. Property taxes are assessed for property as of October 1 of the preceding year based on the millage rates established by the County Commission. Property taxes are due and payable the following October 1 and are delinquent after December 31. Amounts receivable, net of estimated refunds and estimated uncollectible amounts, are recorded for the property taxes levied in the current year. However, since the amounts are not available to fund current year operations, the revenue is deferred and recognized in the subsequent fiscal year when the taxes are both due and collectible and available to fund operations.

Receivables due from other governments include amounts due from grantors for grants issued for specific programs, and amounts due from state, federal and local governments.

Accounts receivable in the enterprise funds are shown at gross. The Commission does not utilize an allowance for doubtful accounts.

3. Deferred Charges

Deferred charges include the costs associated with the issuance of long-term debt that are amortized over the life of the debt.

4. Restricted Assets

Certain general obligation warrants, as well as certain resources set aside for their repayment, are classified as restricted assets on the balance sheet because they are maintained in separate bank accounts and their use is limited by applicable debt covenants. The 2004 General Obligation Construction is used to report proceeds that are restricted for use in various construction projects. The Solid Waste Transfer Construction Fund is used to report proceeds that are restricted to construction projects associated with the county’s solid waste department. The Series 2004 and Series 2005 General Obligation Debt Service Funds are used to segregate resources accumulated for debt service payments.

5. Capital Assets

Capital assets, which include property, equipment, and infrastructure assets (e.g., roads, bridges, water and sewer systems, and similar items), are reported in the applicable governmental and business-type activities columns in the government-wide financial statements. Such assets are valued at cost where historical records are available and at an estimated historical cost where no historical records exist. Donated fixed assets are valued at their estimated fair market value on the date received. Additions, improvements and other capital outlays that significantly extend the useful life of an asset are capitalized. Other costs incurred for repairs and maintenance are expensed as incurred. Major outlays of capital assets and improvements are capitalized as projects are constructed.

Depreciation on all assets is provided on the straight-line basis over the assets estimated useful life. Capitalization thresholds (the dollar values above which asset acquisitions are added to the capital asset accounts) and estimated useful lives of capital assets reported in the government-wide statements and proprietary funds are as follows:

	Capitalization Threshold	Estimated Useful Life
Buildings and Improvements	\$ 50,000	20 - 40 years
Equipment and Furniture	\$ 5,000	5 - 10 years
Motor Vehicles	\$ 5,000	5 - 15 years
System Infrastructure	\$100,000	25 - 40 years
Bridges	\$ 50,000	40 - 50 years
Land Improvements	\$ 5,000	25 - 40 years

The majority of governmental activities infrastructure assets are roads and bridges. The Association of County Engineers has determined that due to the climate and materials used in road construction, the base of the roads in the county will not deteriorate and therefore should not be depreciated. The remaining part of the roads, the surface, will deteriorate and will be depreciated. The entire costs of bridges in the county will be depreciated.

6. Long-Term Obligations

In the government-wide financial statements, and proprietary fund types in the fund financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities, business-type activities, or proprietary fund type statement of net assets. Warrant discounts, as well as issuance costs, are deferred and amortized over the life of the debt. Warrants payable are reported net of the applicable warrant discount. Warrant issuance costs are reported as deferred charges and amortized over the term of the related debt.

In the fund financial statements, governmental fund types recognize warrant discounts, as well as issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

Warrant issuance costs for the 2004 General Obligation Warrants in the amount of \$66,273.05 are being amortized over 18 years. Issuance costs for the 2005 General Obligation Warrants in the amount of \$60,742.50 are being amortized over 15 years. At September 30, 2006, the amount due within the next year is \$7,731.34 (\$3,681.84 for the 2004 General Obligation Warrants and \$4,049.50 for the 2005 General Obligation Warrants).

7. Compensated Absences

The Commission has a standard leave policy for its full-time employees as to sick and annual leave.

Annual Leave

Employees earn annual leave according to the following schedule:

Completed Service	Earned Annual Leave
0-2 years	2 hours per pay period
2-5 years	2.5 hours per pay period
5-10 years	3 hours per pay period
10-15 years	4 hours per pay period
15-20 years	5 hours per pay period
20 years plus	6 hours per pay period

Sick Leave

Employees earn credit for paid sick leave at the rate of one-half day (4 hours) of leave for each two-week pay period for a total of 104 hours per year. Eligible county employees may accumulate up to 120 days of sick leave. Employees hired before January 1, 1986, are eligible to be paid for a portion of accrued sick leave upon separation from county services.

The Commission uses the termination method to accrue its sick leave liability. Under this method an accrual for earned sick leave is made only to the extent it is probable that the benefits will result in termination payments, rather than be taken as absences due to illness or other contingencies, such as medical appointments and funerals.

As of September 30, 2006, the liability for accrued annual and sick leave is approximately \$245,773.07. Of this amount, \$229,997.80 is reported in the governmental activities and \$15,775.27 is reported in the business-type activities.

8. Net Assets/Fund Equity

Net assets are reported on the government-wide and proprietary fund financial statements and are required to be classified for accounting and reporting purposes into the following net asset categories:

- ◆ **Invested in Capital Assets, Net of Related Debt** – Capital assets, net of accumulated depreciation and outstanding principal balances of debt attributable to the acquisition, construction or improvement of those assets. Any significant unspent related debt proceeds at year-end related to capital assets are not included in this calculation.
- ◆ **Restricted** – Constraints imposed on net assets by external creditors, grantors, contributors, laws or regulations of other governments, or law through constitutional provision or enabling legislation.
- ◆ **Unrestricted** – Net assets that are not subject to externally imposed stipulations. Unrestricted net assets may be designated for specific purposes by action of the Commission.

Fund equity is reported in the fund financial statements. Governmental funds report reservations of fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose.

Note 2 – Stewardship, Compliance and Accountability

A. Budgets

Budgets are adopted on a basis of accounting consistent with accounting principles generally accepted in the United States of America (GAAP) for the General Fund with the exception of ad valorem taxes and sales and use taxes, which are budgeted only to the extent expected to be received rather than on the modified accrual basis of accounting. The Gasoline Tax Fund budgets in a basis of accounting consistent with GAAP with the exception of county gasoline taxes, which are budgeted only to the extent expected to be received rather than on the modified accrual basis on accounting. The Public Buildings, Roads and Bridges Fund and the Reappraisal Fund budget on a basis of accounting consistent with GAAP with the exception of ad valorem taxes that are budgeted only to the extent expected to be received rather than on the modified accrual basis of accounting. Capital Projects funds adopt project-length budgets. All appropriations lapse at fiscal year-end.

The State Legislature enacted the County Financial Control Act of 1935 which is the present statutory basis for county budgeting operations. Under the terms of the County Financial Control Act, each county commission, at some meeting in September of each year, but in any event not later than the first meeting in October must estimate the Commission’s revenues and expenditures and appropriate for the various purposes the respective amounts that are to be used for each purpose. The appropriations must not exceed the total revenues available for appropriation. Expenditures may not legally exceed appropriations.

Budgets may be adjusted during the fiscal year when approved by the County Commission. Any changes must be within the revenues and reserves estimated to be available.

B. Deficit Fund Balances/Net Assets of Individual Funds

At September 30, 2006, the following governmental fund had a deficit fund balance:

Gasoline Tax Fund	\$54,036.56
Public Buildings, Roads and Bridges Fund	\$9,640.13

The deficit in the Public Buildings, Roads and Bridges Fund occurred as a result of deferring unearned motor vehicle ad valorem taxes. The deficit in the Gasoline Tax Fund occurred as a result of overspending.

Note 3 – Deposits and Investments

A. Deposits and Investments

The custodial risk for deposits is the risk that, in the event of a bank failure, the Commission will not be able to cover deposits or will not be able to recover collateral securities that are in the possession of an outside party. The Commission’s deposits at year-end were entirely covered by federal depository insurance or by the Security for Alabama Funds Enhancement Program (SAFE Program). The SAFE Program was established by the Alabama Legislature and is governed by the provisions contained in the Code of Alabama 1975, Sections 41-14A-1 through 41-14A-14. Under the SAFE Program all public funds are protected through a collateral pool administered by the Alabama State Treasurer’s Office. Under this program, financial institutions holding deposits of public funds must pledge securities as collateral against those deposits. In the event of failure of a financial institution, securities pledged by that financial institution would be liquidated by the State Treasurer to replace the public deposits not covered by the Federal Depository Insurance Corporation (FDIC). If the securities pledged fail to produce adequate funds, every institution participating in the pool would share the liability for the remaining balance. The Code of Alabama 1975, Section 11-8-11 and Section 11-81-20, authorizes the Commission to invest in obligations of the U. S. Treasury and federal agency securities along with certain pre-refunded public obligations such as bonds or other obligations of any state of the United States of America or any agency, instrumentality or local governmental unit of any such state. All of the Commission’s investments were in certificates of deposit. These certificates of deposit are classified as “Deposits” in order to determine insurance and collateralization. However, they are classified as “Investments” on the financial statements.

B. Cash with Fiscal Agents

As of September 30, 2006, the Commission’s cash with fiscal agents was invested as follows:

	Rating	Maturity	Fair Value
Money Market Mutual Funds:			
Regions Morgan Keegan Select Treasury Money Market	AAAm	Unknown	<u>\$1,101,618.61</u>

Interest Rate Risk – Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The Commission does not have a formal investment policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increased interest rates.

Credit Risk – State law requires that pre-refunded public obligations, such as any bonds or other obligations of any state of the United States of America or of any agency instrumentality or local governmental unit of any such state that the Commission invests in be rated in the highest rating category of Standard & Poor’s Corporation and Moody’s Investors Service, Inc. The Commission does not have a formal policy regarding this state law. As of September 30, 2006, the Commission’s investments in money market funds were rated AAAm by Standard & Poor’s Rating Group.

Custodial Credit Risk – For an investment, this is the risk that, in the event of the failure of the counterparty, the government will not be able to cover the value of its investments or collateral securities that are in the possession of an outside party. The Commission has no formal policy regarding custodial credit risk.

Concentrations of Credit Risk – Concentration of credit risk is the risk of loss attributed to the magnitude of a government’s investment in a single issuer. The Commission does not have a formal policy regarding concentrations of credit risk.

Note 4 – Receivables

On September 30, 2006, receivables for the Commission’s individual major funds and other governmental funds in the aggregate, are as follows:

	Accounts	Intergovernmental	Total Receivables
<u>Governmental Activities:</u>			
General Fund	\$ 38,542.90	\$ 102,836.19	\$ 141,379.09
Gasoline Tax Fund	10,673.13	77,440.07	88,113.20
Other Governmental Funds		87,304.83	87,304.83
Total Governmental Activities	<u>49,216.03</u>	<u>267,581.09</u>	<u>316,797.12</u>
<u>Business-Type Activities:</u>			
Solid Waste Fund	544,446.62		544,446.62
Water System Fund	350,360.12		350,360.12
Total Business-Type Activities	<u>\$ 894,806.74</u>	<u>\$</u>	<u>\$ 894,806.74</u>

The Commission did not record an allowance for doubtful accounts for the business-type activities.

Governmental funds report deferred revenues in connection with receivables for revenues that are not considered to be available to liquidate liabilities of the current period. Governmental funds also defer revenue recognition in connection with resources that have been received, but not yet earned. At September 30, 2006, the various components of deferred revenue and unearned revenue reported in the governmental funds were as follows:

	Unavailable	Unearned
Ad Valorem Property Taxes	\$1,963,745.07	\$
Ad Valorem Motor Vehicle Taxes		89,215.18
Excess Reappraisal Funds		190,177.21
Total Deferred/Unearned Revenue for Governmental Funds	<u>\$1,963,745.07</u>	<u>\$ 279,392.39</u>

Note 5 – Capital Assets

Capital asset activity for the year ended September 30, 2006, was as follows:

	Balance 10/01/2005	Additions/ Reclassifications(*)	Retirements/ Reclassifications	Balance 09/30/2006
Governmental Activities:				
Capital Assets, Not Being Depreciated:				
Land	\$ 87,365.00	\$	\$ (6,704.95)	\$ 80,660.05
Construction in Progress	32,585.00	240,105.53		272,690.53
Infrastructure in Progress	765,549.60	1,029,083.84	(1,794,633.44)	
Total Capital Assets, Not Being Depreciated	<u>885,499.60</u>	<u>1,269,189.37</u>	<u>(1,801,338.39)</u>	<u>353,350.58</u>
Capital Assets Being Depreciated:				
Land Improvements	69,698.00			69,698.00
Buildings	1,918,194.64	51,934.37		1,970,129.01
Building Improvements	31,284.00			31,284.00
Infrastructure	611,862.99	1,794,633.44		2,406,496.43
Equipment and Furniture	2,475,932.26	783,242.40		3,259,174.66
Motor Vehicles	889,072.25	118,400.26	(20,288.00)	987,184.51
Building Under Capital Lease	3,567,615.08			3,567,615.08
Equipment Under Capital Leases	1,189,286.04	160,368.00	(616,648.00)	733,006.04
Total Capital Assets Being Depreciated	<u>10,752,945.26</u>	<u>2,908,578.47</u>	<u>(636,936.00)</u>	<u>13,024,587.73</u>
Less Accumulated Depreciation for:				
Land Improvements	(45,245.00)	(1,254.00)		(46,499.00)
Buildings	(1,323,373.64)	(41,789.05)		(1,365,162.69)
Building Improvements	(17,436.40)	(2,085.60)		(19,522.00)
Infrastructure	(7,648.29)	(37,729.50)		(45,377.79)
Equipment and Furniture	(2,378,294.34)	(143,543.26)	82,000.00	(2,439,837.60)
Motor Vehicles	(725,238.65)	(88,018.66)	19,688.00	(793,569.31)
Building Under Capital Lease	(222,975.95)	(89,190.38)		(312,166.33)
Equipment Under Capital Leases	(153,182.60)	(183,302.21)	106,929.60	(229,555.21)
Total Accumulated Depreciation	<u>(4,873,394.87)</u>	<u>(586,912.66)</u>	<u>208,617.60</u>	<u>(5,251,689.93)</u>
Total Capital Assets Being Depreciated, Net	<u>5,879,550.39</u>	<u>2,321,665.81</u>	<u>428,318.40</u>	<u>7,772,897.80</u>
Total Governmental Activities Capital Assets, Net	<u>\$ 6,765,049.99</u>	<u>\$3,590,855.18</u>	<u>\$(2,229,656.79)</u>	<u>\$ 8,126,248.38</u>
(*) The "Additions" column includes capital assets (\$14,600.00) with related depreciation (\$11,300.00) that were transferred from the Solid Waste Fund to the governmental activities funds.				

	Balance 10/01/2005	Additions/ Reclassifications(*)	Retirements/ Reclassifications	Balance 09/30/2006
<u>Business-Type Activities:</u>				
Capital Assets, Not Being Depreciated:				
Land	\$ 109,929.00	\$	\$	\$ 109,929.00
Construction in Progress	6,500.00			6,500.00
Total Capital Assets, Not Being Depreciated	116,429.00			116,429.00
Capital Assets Being Depreciated:				
Land Improvements	6,192,075.70			6,192,075.70
Equipment and Furniture	78,447.20		(36,610.00)	41,837.20
Motor Vehicles	82,801.00	20,369.33	(14,600.00)	88,570.33
Equipment Under Capital Leases	262,800.06	324,418.00	(161,316.66)	425,901.40
Total Capital Assets Being Depreciated	6,616,123.96	344,787.33	(212,526.66)	6,748,384.63
Less Accumulated Depreciation for:				
Improvements Other Than Buildings	(2,968,536.43)	(220,168.09)		(3,188,704.52)
Equipment and Furniture	(73,742.72)	(1,045.44)	36,610.00	(38,178.16)
Motor Vehicles	(79,501.00)	(8,873.87)	11,300.00	(77,074.87)
Equipment Under Capital Leases	(26,280.01)	(101,311.94)	32,263.34	(95,328.61)
Total Accumulated Depreciation	(3,148,060.16)	(331,399.34)	80,173.34	(3,399,286.16)
Total Capital Assets Being Depreciated, Net	3,468,063.80	13,387.99	(132,353.32)	3,349,098.47
Total Business-Type Activities Capital Assets, Net	\$ 3,584,492.80	\$ 13,387.99	\$ (132,353.32)	\$ 3,465,527.47
(*) The "Additions" column includes capital assets (\$6,000.00) with related depreciation (\$5,400.00) that were transferred from governmental activities to the Solid Waste Fund.				

Depreciation expense was charged to functions/programs of the primary government as follows:

	Current Year Depreciation Expense
<u>Governmental Activities:</u>	
General Government	\$ 74,551.91
Public Safety	140,962.41
Highways and Roads	347,933.93
Sanitation	1,254.00
Health	6,052.73
Welfare	1,446.68
Education	3,411.00
Total Depreciation Expense - Governmental Activities	<u>\$ 575,612.66</u>

	Current Year Depreciation Expense
<u>Business-Type Activities:</u>	
Sanitation	\$325,999.34
Total Depreciation Expense - Business-Type Activities	<u>\$325,999.34</u>

Note 6 – Defined Benefit Pension Plan

A. Plan Description

The Commission contributes to the Employees’ Retirement System of Alabama, an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for the various state agencies and departments.

Substantially all employees of the Commission are members of the Employees’ Retirement System of Alabama. Membership is mandatory for covered or eligible employees of the Commission. Benefits vest after 10 years of creditable service. Vested employees may retire with full benefits at age 60 or after 25 years of service. Retirement benefits are calculated by two methods with the retiree receiving payment under the method which yields the highest monthly benefit. The methods are (1) Minimum Guaranteed, and (2) Formula, of which the Formula method usually produces the highest monthly benefit. Under this method retirees are allowed 2.0125% of their average final salary (best three of the last ten years) for each year of service. Disability retirement benefits are calculated in the same manner. Pre-retirement death benefits in the amount of the annual salary for the fiscal year preceding death is provided to plan members.

The Employees' Retirement System was established as of October 1, 1945, under the provisions of Act Number 515, Acts of Alabama 1945, for the purpose of providing retirement allowances and other specified benefits for State employees, State police, and on an elective basis to all cities, counties, towns and quasi-public organizations. The responsibility for general administration and operation of the Employees' Retirement System is vested in the Board of Control. Benefit provisions are established by the Code of Alabama 1975, Sections 36-27-1 through 36-27-103, as amended, Sections 36-27-120 through 36-27-139, as amended, and Sections 36-27B-1 through 36-27B-6. Authority to amend the plan rests with the Legislature of Alabama. However, the Legislature has granted the Commission authority to accept or reject various Cost-Of-Living-Adjustments (COLAs) granted to retirees.

The Retirement Systems of Alabama issues a publicly available financial report that includes financial statements and required supplementary information for the Employees' Retirement System of Alabama. That report may be obtained by writing to The Retirement Systems of Alabama, 135 South Union Street, Montgomery, Alabama 36130-2150.

B. Funding Policy

Employees of the Commission, with the exception of full-time law enforcement officers, are required by statute to contribute 5 percent of their salary to the Employees' Retirement System. As of January 1, 2001, full-time law enforcement officers are required by statute to contribute 6 percent of their salary to the Employees' Retirement System. The Commission is required to contribute the remaining amounts necessary to fund the actuarially determined contributions to ensure sufficient assets will be available to pay benefits when due. The contribution requirements of the Commission are established by the Employees' Retirement System based on annual actuarial valuations. The employer's contribution rate for the year ended September 30, 2006, was 5.86 percent based on the actuarial valuation performed as of September 30, 2004.

C. Annual Pension Cost

For the year ended September 30, 2006, the Commission's annual pension cost of \$163,509.59 was equal to the Commission's required and actual contribution. The required contribution was determined using the "entry age normal" method. The actuarial assumptions as of September 30, 2005, the actuarial valuation date, were: (a) 8 percent investment rate of return on present and future assets, and (b) projected salary increases ranging from 7.75 percent at age 20 to 4.61 percent at age 65. Both (a) and (b) include an inflation component of 4.5 percent. The actuarial value of assets was determined using techniques that smooth the effects of short-term volatility in the market value of investments over a five-year period. The unfunded actuarial accrued liability is being amortized as a level percentage of projected payroll on an open basis. The remaining amortization period, as of September 30, 2005, was 15 years.

The following is three-year trend information for the Commission:

Fiscal Year Ending	Annual Pension Cost (APC)	Percentage of APC Contributed	Net Pension Obligation
09/30/2006	\$163,510	100%	\$0
09/30/2005	\$149,488	100%	\$0
09/30/2004	\$115,856	100%	\$0

Schedule of Funding Progress

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) Entry Age (b)*	Unfunded AAL (UAAL) (b-a)	Funded Ratio (a/b)	Covered Payroll	UAAL as a Percentage of Covered Payroll [(b-a)/c]
09/30/2005	\$5,343,079	\$5,729,302	\$386,223	93.3%	\$2,751,502	14.0%
09/30/2004***	\$4,926,119	\$5,067,687	\$141,568	97.2%	\$2,534,889	5.6%
09/30/2003**	\$4,543,832	\$4,860,738	\$316,906	93.5%	\$2,285,485	13.9%

* Reflects liability for cost of living benefit increase granted on or after October 1, 1978.

** Reflects effect of DROP if unit elected to enroll prior to May 18, 2004.

***Reflects effect of DROP if unit elected to enroll prior to August 4, 2005.

Note 7 – Contingent Liabilities

Under the provisions of Act Number 79-357, Acts of Alabama, a sheriff is eligible to become a supernumerary sheriff upon retirement after sixteen (16) years of service credit as a law enforcement officer, twelve (12) of which have been as a sheriff, and who has attained the age of fifty-five (55) years. The Example County Sheriff, who has elected to participate in this retirement plan, makes monthly contributions out of his salary as required by law. The Commission has a responsibility to properly manage these funds in order to provide the necessary monthly payments to the Sheriff when he retires. Should the Sheriff decide to withdraw from the plan for whatever reason, the Commission is obligated to refund the Sheriff's total contribution which at September 30, 2006, amounted to \$43,074.12.

Note 8 – Payables

On September 30, 2006, payables for the Commission's individual major funds and fiduciary funds in the aggregate are as follows:

	Vendors	Other	Total Payables
<u>Governmental Activities</u>			
General Fund	\$ 21,359.55	\$ 25,156.00	\$ 46,515.55
Gasoline Tax Fund	89,147.02		89,147.02
Reappraisal Fund	1,691.71		1,691.71
Total – Governmental Activities	112,198.28	25,156.00	137,354.28
<u>Business-Type Activities</u>			
Solid Waste Fund	1,981.44		1,981.44
Water Fund	8,291.73		8,291.73
Total – Business-Type Activities	10,273.17		10,273.17
<u>Fiduciary Funds</u>			
Private-Purpose Trust Funds	\$	\$ 59,022.95	\$ 59,022.95

Note 9 – Lease Obligations

Capital Leases

The Commission is obligated under certain leases accounted for as capital leases. Equipment under capital leases totaled \$733,006.04 for governmental activities and \$425,901.40 for business-type activities at September 30, 2006. Building under capital lease totaled \$3,567,615.08 in the governmental activities at September 30, 2006. If the Commission completes the lease payments according to the schedules below, which is the stated intent of the Commission, ownership of the leased assets will pass to the Commission. The lease purchase contracts give the Commission the right to cancel the lease with 30 days written notice and payment of a pro rata share of the current year's lease payments. Until that time, the leased equipment will be identified separately on the balance sheet. The following is a schedule of future minimum lease payments under capital leases, together with the net present value of the minimum lease payments as of September 30.

Fiscal Year Ending	Governmental Activities	Business-Type Activities
September 30, 2007	\$ 437,335.65	\$ 115,611.43
2008	437,873.16	115,611.42
2009	394,695.07	115,611.41
2010	284,752.87	88,181.65
2011	246,281.26	
2012-2016	1,224,777.50	
2017-2021	1,233,475.00	
2022-2025	983,285.00	
Total Minimum Lease Payments	5,242,475.51	435,015.91
Less: Amount Representing Interest	(1,952,413.29)	(33,301.00)
Present Value of Net Minimum Lease Payments	\$ 3,290,062.22	\$401,714.91

Note 10 – Long-Term Debt

The Commission issued General Obligation Warrants to provide funds for the acquisition and construction of major capital facilities. In July 2004, General Obligation Warrants, with interest rates of 2.875 to 4.50 percent, were issued to provide funds for the purpose of financing the acquisition and construction of public improvements.

In August 2005, General Obligation Warrants, with interest rates of 3.00 to 4.50 percent, were issued to provide funds for improvements and to refund the 1997 General Obligation Warrants.

The following is a summary of general long-term debt transactions for the Commission for the year ended September 30, 2006:

	Debt Outstanding 10/01/2005	Issued/ Increased	Repaid/ Decreased	Debt Outstanding 09/30/2006	Amounts Due Within One Year
<u>Governmental Activities:</u>					
Warrants Payable:					
2005 General Obligation Warrants	\$1,895,000.00	\$	\$	\$1,895,000.00	\$ 110,000.00
2004 General Obligation Warrants	1,770,000.00		(30,000.00)	1,740,000.00	35,000.00
Less Deferred Amounts:					
Discount	(43,360.78)		2,839.12	(40,521.66)	(2,839.12)
Deferred Charges on Refunding	(65,087.53)		6,198.81	(58,888.72)	(6,198.81)
Total Warrants Payable	<u>3,556,551.69</u>		<u>(20,962.07)</u>	<u>3,535,589.62</u>	<u>135,962.07</u>
Other Liabilities:					
Capital Leases Payable	3,949,903.19	670,794.00	(1,330,634.97)	3,290,062.22	259,805.70
Compensated Absences	220,498.43	9,499.37		229,997.80	22,999.78
Total Other Liabilities	<u>4,170,401.62</u>	<u>680,293.37</u>	<u>(1,330,634.97)</u>	<u>3,520,060.02</u>	<u>282,805.48</u>
Total Governmental Activities Long-Term Liabilities	<u>7,726,953.31</u>	<u>680,293.37</u>	<u>(1,351,597.04)</u>	<u>7,055,649.64</u>	<u>418,767.55</u>
<u>Business-Type Activities:</u>					
Notes Payable	153,000.00		(7,200.00)	145,800.00	7,200.00
Other Liabilities:					
Capital Leases Payable	262,800.06	324,418.00	(185,503.15)	401,714.91	102,006.79
Compensated Absences	14,995.48	779.79		15,775.27	1,577.53
Total Other Liabilities	<u>277,795.54</u>	<u>325,197.79</u>	<u>(185,503.15)</u>	<u>417,490.18</u>	<u>103,584.32</u>
Total Business-Type Activities Long-Term Liabilities	<u>\$ 430,795.54</u>	<u>\$ 325,197.79</u>	<u>\$ (192,703.15)</u>	<u>\$ 563,290.18</u>	<u>\$ 110,784.32</u>

Payments on the bonds payable that pertain to the Commission's governmental activities are made by the Debt Service Funds. The Capital Lease Liability for the Governmental Activities will be liquidated by the General, Gasoline Tax, and Capital Improvements Funds. The Note Payable for Business-Type Activities is paid by the Water System Fund. The Capital Lease Liability for the Business-Type Activities is paid by the Solid Waste Fund.

The following is a schedule of debt service requirements to maturity:

Fiscal Year Ending	Governmental Activities				Governmental Activities		Total Principal and Interest Requirements to Maturity
	2004 General Obligation Warrants Payable		2005 General Obligation Warrants Payable		Capital Lease Contracts Payable		
	Principal	Interest	Principal	Interest	Principal	Interest	
September 30, 2007	35,000.00	72,551.26	110,000.00	74,280.00	\$ 259,805.70	\$ 177,529.95	\$ 729,166.91
2008	35,000.00	71,545.00	110,000.00	70,870.00	270,641.46	167,231.70	725,288.16
2009	35,000.00	70,538.76	110,000.00	67,240.00	237,735.07	156,960.00	677,473.83
2010	35,000.00	69,532.50	115,000.00	63,357.50	136,879.99	147,872.88	567,642.87
2011	35,000.00	68,220.00	120,000.00	59,125.00	105,000.00	141,281.26	528,626.26
2012-2016	210,000.00	319,192.50	680,000.00	218,857.50	610,000.00	614,777.50	2,652,827.50
2017-2021	1,115,000.00	203,837.50	650,000.00	60,150.00	820,000.00	413,475.00	3,262,462.50
2022-2025	240,000.00	10,800.00			850,000.00	133,285.00	1,234,085.00
Totals	\$1,740,000.00	\$886,217.52	\$1,895,000.00	\$613,880.00	\$ 3,290,062.22	\$1,952,413.29	\$10,377,573.03

Fiscal Year Ending	Business-Type Activities				Total and Interest Requirements to Maturity
	Notes Payable		Capital Lease Contracts Payable		
	Principal	Interest	Principal	Interest	
September 30, 2007	7,200.00	(*)	102,006.79	13,604.64	122,811.43
2008	7,200.00		105,447.82	10,163.60	122,811.42
2009	7,200.00		109,005.68	6,605.73	122,811.41
2010	7,200.00		85,254.62	2,927.03	95,381.65
2011	7,200.00				7,200.00
2012-2016	36,000.00				36,000.00
2017-2021	36,000.00				36,000.00
2022-2026	36,000.00				36,000.00
2027	1,800.00				1,800.00
Total	\$145,800.00		\$401,714.91	\$33,301.00	\$580,815.91

(*) Interest-Free Note

Warrant Issuance Costs, Deferred Charges on Refunding and Discounts

The Commission has warrant issuance costs, as well as discounts, in connection with the issuance of its 2004 General Obligation Warrants. The issuance costs and discount are being amortized using the straight-line method over a period of 18 years.

The Commission has warrant issuance costs, as well as discounts and deferred charges on refunding, in connection with the issuance of its 2005 General Obligation Warrants. The issuance costs and discount are being amortized using the straight-line method over a period of 20 years and deferred charges on refunding are being amortized using the straight-line method over a period of 11 years, the remaining life of the warrants defeased.

	Issuance Costs	Deferred Charges on Refunding	Discount
<u>Issuance Costs, Deferred Charges on Refunding and Discounts</u>			
2005 General Obligation Warrants	\$ 60,742.50	\$68,186.94	\$26,135.55
2004 General Obligation Warrants	66,273.05		19,741.55
Total	127,015.55	68,186.94	45,877.10
Amount amortized prior years	(7,547.51)	(3,099.41)	(2,516.32)
Balance	119,468.04	65,087.53	43,360.78
Current Amount Amortized	(7,731.34)	(6,198.81)	(2,839.12)
Balance Issuance Costs, Deferred Charges on Refunding and Discounts	<u>\$111,736.70</u>	<u>\$58,888.72</u>	<u>\$40,521.66</u>

Note 11 – Risk Management

The Commission is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; injuries to employees; and natural disasters. The Commission has general liability insurance through the Association of County Commissions of Alabama (ACCA) Liability Self Insurance Fund, a public entity risk pool. The Fund is self-sustaining through member contributions. The Commission pays an annual premium based on the Commission’s individual claims experience and the experience of the Fund as a whole. Coverage is provided up to \$500,000 per claim for a maximum total coverage of \$2,000,000 and unlimited defense costs.

The Commission has workers’ compensation insurance through the Association of County Commissions of Alabama (ACCA) Workers’ Compensation Self Insurance Fund, a public entity risk pool. Premiums are based on a rate per \$100 of remuneration for each class of employee which is adjusted by an experience modifier for the individual county less a 15% discount. At year-end, pool participants are eligible to receive refunds of unused premiums and the related investment earnings. The Commission may qualify for additional discounts based on losses and premium size. Employment-related practices damage protection is limited to \$50,000 per incident with a \$5,000 deductible and unlimited defense costs.

The Commission purchases commercial insurance for its other risks of loss, including property and casualty insurance and employee health insurance. Settled claims resulting from these risks have not exceeded commercial insurance coverage in any of the past three fiscal years.

Note 12 – Interfund Receivables and Payables

Due To/From Other Funds

The amounts due to/from other funds at September 30, 2006, were as follows:

	<u>Due from Other Funds</u>
	General Fund
Due to Other Funds:	
Other Governmental Funds	\$36,463.51
Totals	\$36,463.51

The amount due to the General Fund is from the UAB Health Projects Fund for a loan made for the purpose of paying expenditures.

Interfund Transfers and Contributions

The amounts of interfund transfers during the fiscal year ending September 30, 2006, were as follows:

Transfers In	Transfers Out				Totals
	Governmental Activities			Business-Type Activities	
	General Fund	Public Buildings, Roads & Bridges Fund	Other Governmental Funds	Water System Fund	
General Fund	\$	\$	\$ 13,701.19	\$ 43,523.52	\$ 57,224.71
Gasoline Tax Fund	463,000.00	239,800.00	129,500.00		832,300.00
Other Governmental Funds	785,777.34		241,000.00		1,026,777.34
Business-Type Activities:					
Solid Waste Fund	251,500.00				251,500.00
Totals	<u>\$ 1,500,277.34</u>	<u>\$ 239,800.00</u>	<u>\$ 384,201.19</u>	<u>\$ 43,523.52</u>	<u>\$ 2,167,802.05</u>

The Commission typically used transfers to fund ongoing operating subsidies and to transfer the portion from the General Fund to the Debt Service Funds to service current-year debt requirements.

Capital assets with related depreciation in the net amount of \$3,300.00 were transferred from the Solid Waste Fund to the governmental activities.

Capital assets with related depreciation in the net amount of \$600.00 were transferred from the governmental activities to the Solid Waste Fund.

Note 13 – Related Parties

One of the members of the Commission is employed by the Alabama-Tombigbee Regional Commission. The Commission paid the Regional Commission approximately \$64,127.72 for transportation services in the county during the fiscal year ended September 30, 2006.

Another member of the Commission is employed by a local funeral home. The Commission paid the funeral home approximately \$1,200.00 for indigent burials.

The Commission paid approximately \$23,900.00 to a construction company that is owned by the brother of a Commission member.

One of the members of the Commission is a teacher at Example Central High School. The Commission paid approximately \$2,745.02 to Example Central High School Jaguars and \$200.00 to the Example County Board of Education for band instruments.

Chief Deputy Sheriff is co-owner in Computer Sales and Service. The Commission paid \$8,346.88 to Computer Sales and Service for computer equipment purchases by the Probate Office and GPS Navigation Systems for various emergency response personnel funded by Homeland Security.

Note 14 – Deficit Cash Balance

The Gasoline Tax Fund has a deficit cash balance of \$34,727.58 at September 30, 2006.

Note 15 – Change in Reporting Entity

The Offices of the Example County Tax Assessor, Tax Collector, Judge of Probate, and Sheriff were previously considered to be component units of Example County and the activities of these offices were previously excluded from the financial statements of the Example County Commission. However, these offices, are now considered to be part of the reporting entity of the Example County Commission rather than component units and the activity of these offices are now included in the financial statements of the Example County Commission.

Note 16 – Related Organizations

A majority of the members of the Boards listed below are appointed by the Example County Commission. The County, however, is not financially accountable, because it does not impose its will and have a financial benefit or burden relationship for the Boards, and the Boards are not considered part of the Commission’s financial reporting entity. The Boards presented below are considered related organizations of the County Commission.

Related Organizations
Example County Water Authority
Example County Public Building Authority
Example County Housing Authority

Note 17 – Restatements

Restatements were made to beginning fund balances to correct various errors from the prior period.

The impact of the restatements on the fund balances/net assets as previously reported is as follows:

	General Fund	Gasoline Tax Fund	Public Buildings, Roads & Bridges Fund	2004 General Obligation Warrants Construction Fund	Other Governmental Funds	Total
Fund Balance, September 30, 2005, as Previously Reported	\$1,578,786.16	\$ 517,028.31	\$ (4,280.32)	\$1,111,691.07	\$936,258.15	\$4,139,483.37
Restatements to Correct Prior Year Errors	(108,854.09)				(6,049.64)	(114,903.73)
Fund Balance, September 30, 2005, as Restated	<u>\$1,469,932.07</u>	<u>\$ 517,028.31</u>	<u>\$ (4,280.32)</u>	<u>\$1,111,691.07</u>	<u>\$ 930,208.51</u>	<u>\$ 4,024,579.64</u>
Governmental Activities Net Assets, September 30, 2005, as Previously Reported						\$ 3,226,071.22
Restatements to Correct Prior Year Errors – Fund Balances						(114,903.73)
Governmental Activities Net Assets, September 30, 2005, as Restated						<u>\$ 3,111,167.49</u>

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Alabama's Constitution

Original Provisions

SECTION 91.

The legislature shall not tax the property, real or personal, of the state, counties, or other municipal corporations, or cemeteries; nor lots in incorporated cities and towns, or within one mile of any city or town to the extent of one acre, nor lots one mile or more distant from such cities or towns to the extent of five acres, with the buildings thereon, when same are used exclusively for religious worship, for schools, or for purposes purely charitable.

SECTION 205.

Every homestead not exceeding eighty acres, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any city, town, or village, or in lieu thereof, at the option of the owner, any lot in a city, town, or village, with the dwelling and appurtenances thereon owned and occupied by any resident of this state, and not exceeding the value of two thousand dollars, shall be exempt from sale on execution or any other process from a court; for any debt contracted since the thirteenth day of July, eighteen hundred and sixty-eight, or after the ratification of this Constitution. Such exemption, however, shall not extend to any mortgage lawfully obtained, but such mortgage or other alienation of said homestead by the owner thereof, if a married man, shall not be valid without the voluntary signature and assent of the wife to the same.

SECTION 281.

The salary, fees, or compensation of any officer holding any civil office of profit under this state or any county or municipality thereof, shall not be increased or diminished during the term for which he shall have been elected or appointed.

Amendments

AMENDMENT 3.

Article XIX, Section 1. The several counties in the state shall have power to levy and collect a special county tax not exceeding thirty cents on each one hundred dollars worth of taxable property in such counties in addition to that now authorized or that may hereafter be authorized for public school purposes, and in addition to that now authorized under section 260 of article XIV of the Constitution; provided, that the rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of the county, and voted for by a majority of those voting at such election.

Section 2. The several school districts of any county in the state shall have power to levy and collect a special district tax not exceeding thirty cents on each one hundred dollars worth of taxable property in such district for public school purposes; provided, that a school district under the meaning of this section shall include incorporated cities or towns, or any school district of which an incorporated city or town is a part, or such other school districts now existing or hereafter formed as may be approved by the county board of education; provided further, that the rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of the district and voted for by a majority of those voting at such election; provided further, that no district tax shall be voted or collected except in such counties as are levying and collecting not less than a three-mill special county school tax.

Section 3. The funds arising from the special county school tax levied and collected by any county shall be apportioned and expended as the law may direct, and the funds arising from the special school tax levied in any district which votes the same independently of the county shall be expended for the exclusive benefit of the district, as the law may direct.

AMENDMENT 59.

The governing body of any county in the state of Alabama except Mobile and Montgomery county must levy and collect or cause to be collected for use in the acquisition by purchase, lease or otherwise, or for the construction, operation, equipment and maintenance of a county hospital, in addition to all other taxes now authorized by law, a tax, not in excess of ten mills on each one hundred dollars, on all property situated within the county, based upon the valuation of such property in the county as assessed for state taxation, provided such tax is authorized by a majority of the qualified electors of the county voting upon such proposition at an election called and held for the purpose of authorizing such tax. Such an election may be called at any time by the governing body of any county in the state, and said governing body must call such election upon a petition being filed with the chairman or any member of said governing body requesting that such an election be called or held when said petition is signed by not less than one hundred qualified electors of the county in which said election is to be held. Said election shall be held and conducted and the results canvassed as now provided by law for holding and conducting and canvassing the returns of an election. The proceeds of the tax hereby authorized must be used exclusively for the purpose of acquiring by purchase, lease, or otherwise, or the construction, equipment, maintenance and operation of said county hospital and shall be expended for said purposes by and under the direction, supervision and control of the county governing body.

AMENDMENT 72.

If the tax is authorized by vote of a majority of the qualified electors of the county who participate in any election called for that purpose, the governing body of every county except Mobile, Montgomery and Jefferson counties must levy and collect, in addition to all other taxes authorized by law, a special county tax, not exceeding four mills on each dollar of taxable property in the county to be used solely for acquiring, by purchase, lease, or otherwise, constructing, operating, equipping, or maintaining county hospitals, or other public hospitals, non-profit hospitals and public health facilities. An election may be called at any time by the governing body of the county, and must be called within three months of receipt of a petition, signed by not less than five percent of the qualified electors of the county, requesting that the election be called. The election shall be conducted in the manner which the governing body of the county prescribes.

AMENDMENT 76.

This amendment shall apply in all counties except Mobile and Jefferson counties. The term "public hospital purposes" as used in this amendment shall be construed to include the acquisition by purchase, lease, or otherwise, and the construction, equipment, operation, and maintenance of public hospital facilities. The term "public hospital facilities" as used in this amendment shall be construed to include public hospitals, public clinics, public health centers, nurses' homes and training facilities, and related public health facilities of any kind.

If a majority of the qualified electors of any county in the state, except Mobile and Jefferson counties, who participate in an election held therein pursuant to the provisions of any amendment to the Constitution heretofore adopted shall vote at such election in favor of the levy and collection of a special county tax, within the limitations provided in such amendment, for any one or more of the purposes included within the meaning of the term public hospital purposes, the proceeds derived from the tax authorized at such election may be applied for any one or more of the purposes for which said tax may be so voted. Whenever the tax shall be voted the governing body of the county may anticipate the proceeds therefrom for any one or more of the purposes for which the tax shall be voted by issuing, without further election, interest bearing tax anticipation bonds, warrants, or certificates of indebtedness of said county payable solely from and secured by a pledge of not exceeding 75% of the annual proceeds from said tax received by the county.

The governing body of each county in which the said tax may be voted shall have the further power to designate as the agency of the county to acquire, construct, equip, operate and maintain public hospital facilities any public corporation heretofore or hereafter organized for hospital purposes in the county under any general law heretofore or hereafter enacted by the legislature. When a public corporation shall be so designated, the proceeds of said tax thereafter collected shall be paid over to it and shall be used by it for any one or more of the purposes for which the tax shall have been voted; provided, that payment of the proceeds of said tax to said public corporation shall be made only to such extent as will not result in the impairment of the obligation of any contract theretofore made with respect to said tax. Said public corporation may anticipate the proceeds from said tax so required to be paid to it by issuing, for any one or more of the purposes for which the tax shall have been voted, the bonds, warrants, or certificates of indebtedness of said public corporation, and may pledge for the payment of the principal thereof and interest thereon not exceeding 75% of the annual proceeds from said tax so paid to it.

Each county in which the tax shall be voted, and in the event a public corporation shall have been designated as the agency of such county pursuant to the provisions hereof then said public corporation, shall have the power to contract with any other county or similar public corporation with respect to the acquisition by purchase, lease, or otherwise, and the construction, equipment, operation, and maintenance of public hospital facilities outside of the county and within any zone or region of which the county may be a part, and which may have heretofore been established or may hereafter be established for public hospital purposes by the legislature or by any agency designated by it, the obligations of such contract to be payable solely out of the proceeds of said tax; provided, that the proceeds of said tax shall not be used outside of the county for any purpose for which the proceeds could not be used in the county, and shall not be used with respect to public hospital facilities located outside of the county if the tax is voted specifically for public hospital facilities located in the county.

No securities issued or contracts made by a county under the authority of this amendment, which are payable solely out of the proceeds of said tax, and no securities issued or contracts made by any such public corporation, whether or not issued or made under the authority of this amendment, shall be construed to be bonds of the county or of a political subdivision thereof within the meaning of section 222 of the Constitution, or construed to create or constitute an indebtedness of the county within the meaning of section 224 of the Constitution. Said securities shall be construed to be negotiable instruments notwithstanding the fact that they may be payable solely from a limited source. All pledges of said tax and all contracts made with respect thereto pursuant to the provisions of this amendment shall take precedence in the order in which they are made and shall create a charge on the proceeds of said tax prior to the expenses of operating and maintaining any public hospital facilities.

In each instance in which a special county tax for any one or more of the purposes included within the meaning of the term "public hospital purposes" has heretofore been authorized at an election held in a county pursuant to the provisions of any amendment to the Constitution heretofore adopted, all provisions of this amendment shall be applicable in said county to the same extent as if said election had been held after the adoption of this amendment.

This amendment shall be self-executing.

AMENDMENT 111.

Sec. 137. Duties generally and restrictions on receipt of fees, etc., by attorney general, state auditor, secretary of state, state treasurer, superintendent of education and commissioner of agriculture and industries; annual reports by state treasurer and state auditor; attorney general may be required to defend suits against state, political subdivisions, officers, etc.

The attorney general, state auditor, secretary of state, state treasurer, superintendent of education, and commissioner of agriculture and industries shall perform such duties as may be prescribed by law. The state treasurer and state auditor shall, every year, at a time fixed by the legislature, make a full and complete report to the governor, showing the receipts and disbursements of every character, all claims audited and paid out, by items, and all taxes and revenues collected and paid into the treasury, and the sources thereof. They shall make reports oftener upon any matters pertaining to their offices, if required by the governor or the legislature. The attorney general, state auditor, secretary of state, state treasurer, and commissioner of agriculture and industries shall not receive to their use any fees, costs, perquisites of office or other compensation than the salaries prescribed by law, and all fees that may be

payable for any services performed by such officers shall be at once paid into the state treasury. The legislature may require the attorney general to defend any or all suits brought against the state, or any subdivision thereof, or against any state school board or state board of education, or against any county or city school board or board of education, or against like boards or commissions by whatever name designated, or against any members, officers or employees of any such boards, or against any school official or employee throughout Alabama.

Sec. 139. The judicial power of the state shall be vested in the senate sitting as a court of impeachment, a supreme court, circuit courts, chancery courts, courts of probate, such courts of law and equity inferior to the supreme court, and to consist of not more than five members, as the legislature from time to time may establish, and such persons as may be by law invested with powers of a judicial nature; but no court of general jurisdiction, at law or in equity, or both, shall hereafter be established in and for any one county having a population of less than twenty thousand, according to the next preceding federal census, and property assessed for taxation at a less valuation than three million five hundred thousand dollars. The legislature shall also have authority to constitute as judicial officers any or all of the members of state school boards, state boards of education, county school boards, city school boards, and like boards or commissions by whatever name designated, and all superintendents of schools and school officials and employees throughout Alabama, and to provide that all action taken by them, or any of them, requiring the exercise of discretion or judgment in connection with school matters be judicial action.

Sec. 256. Educational policy of the state; authority of legislature to provide for or authorize establishment and operation of schools by persons, municipalities, etc.; grant, donation, sale or lease of funds and property for educational purposes; election of certain schools for attendance by parents of minors.

It is the policy of the state of Alabama to foster and promote the education of its citizens in a manner and extent consistent with its available resources, and the willingness and ability of the individual student, but nothing in this Constitution shall be construed as creating or recognizing any right to education or training at public expense, nor as limiting the authority and duty of the legislature, in furthering or providing for education, to require or impose conditions or procedures deemed necessary to the preservation of peace and order.

The legislature may by law provide for or authorize the establishment and operation of schools by such persons, agencies or municipalities, at such places, and upon such conditions as it may prescribe, and for the grant or loan of public funds and the lease, sale or donation of real or personal property to or for the benefit of citizens of the state for educational purposes under such circumstances and upon such conditions as it shall prescribe. Real property owned by the state or any municipality shall not be donated for educational purposes except to nonprofit charitable or eleemosynary corporations or associations organized under the laws of the state.

To avoid confusion and disorder and to promote effective and economical planning for education, the legislature may authorize the parents or guardians of minors, who desire that such minors shall attend schools provided for their own race, to make election to that end, such election to be effective for such period and to such extent as the legislature may provide.

Sec. 258. All lands or other property given by individuals, or appropriated by the state for educational purposes, and all estates of deceased persons who die without leaving a will or heir, shall be used or applied to the furtherance of education.

Sec. 259. All poll taxes collected in this state shall be applied to the support and furtherance of education in the respective counties where collected.

Sec. 260. The income arising from the sixteenth section trust fund, the surplus revenue fund, until it is called for by the United States government, and the funds enumerated in sections 257 and 258 of this Constitution, together with a special annual tax of thirty cents on each one hundred dollars of taxable property in this state, which the legislature shall levy, shall be applied to the support and furtherance of education, and it shall be the duty of the legislature to

increase the educational fund from time to time as the necessity therefore and the condition of the treasury and the resources of the state may justify; provided, that nothing herein contained shall be so construed as to authorize the legislature to levy in any one year a greater rate of state taxation for all purposes, including schools, than sixty-five cents on each one hundred dollars' worth of taxable property; and provided further, that nothing herein contained shall prevent the legislature from first providing for the payment of the bonded indebtedness of the state and interest thereon out of all the revenue of the state.

Except as they may be specifically set aside in trust funds or otherwise applied to the payment of indebtedness, all proceeds of income or other taxes levied by the state, and of all special ad valorem or other taxes levied by counties and other municipalities, or school districts, pursuant to the Constitution as heretofore amended, for public school purposes, shall be applied to the support and furtherance of education pursuant to section 256 of the Constitution, as amended.

Sec. 269. The several counties in this state shall have power to levy and collect a special tax not exceeding ten cents on each one hundred dollars of taxable property in such counties, for the support and furtherance of education in such manner as may be authorized by the legislature; provided, that the rate of such tax, the time it is to continue, and the purpose thereof, shall have been first submitted to a vote of the qualified electors of the county, and voted for by three-fifths of those voting at such election; but the rate of such special tax shall not increase the rate of taxation, state and county combined, in any one year, to more than one dollar and twenty-five cents on each one hundred dollars of taxable property; excluding, however, all special county taxes for public buildings, roads, bridges, and the payment of debts existing at the ratification of the Constitution of eighteen hundred and seventy-five.

Sec. 270. The provisions of this article and of any act of the legislature passed in pursuance thereof for educational purposes, shall apply to Mobile county only so far as to authorize and require the authorities designated by law to draw the portions of the funds to which said county shall be entitled for school purposes and to make reports to the superintendent of education as may be prescribed by law; and all special incomes and powers of taxation as now authorized by law for the benefit of public schools in said county shall remain undisturbed until otherwise provided by the legislature.

AMENDMENT 125.

The legislature may authorize the use of any portion of the proceeds of any special county tax levied for the purpose of acquiring, constructing, equipping, operating, and maintaining public hospitals, public clinics, public health centers, and related public health facilities of any kind, or for any one or more of the purposes included within the meaning of the term "public hospital purposes," for the purpose of providing hospital care and treatment for indigent residents of the county, or for the purpose of matching any state or federal funds made available for use in providing hospital care and treatment for indigent residents of the county, any provision of the Constitution to the contrary notwithstanding. Provided, however, that if any portion of the proceeds of such tax shall have been pledged to the payment of any bonds, warrants, notes, or other obligations or evidences of indebtedness, such portion of the proceeds of the tax as shall have been so pledged shall not be used for any purpose except in payment of such bonds, warrants, notes, or other obligations or evidences of indebtedness.

AMENDMENT 202.

The court of county commissioners, board of revenue, or other like governing body of each of the several counties in the state shall have the power to levy and collect a special county tax of not to exceed fifty cents on each one hundred dollars of taxable property, in addition to all other taxes now or hereafter authorized by the Constitution and laws of Alabama, for educational purposes, on the value of the taxable property in the county as assessed for state taxation, provided the purpose thereof, and the time such tax is proposed to be continued shall have been first submitted to a vote of the qualified electors of the county and voted for by a majority of those voting at such election. If any proposal to levy the tax is defeated in any election, subsequent elections thereon may be held at any

time. The election provided for herein shall be called, held, conducted, paid for, and governed otherwise in the manner provided for an election on the school district tax authorized in constitutional amendment III [3].

AMENDMENT 208.

SECTION 215.

No county in this state shall be authorized to levy a greater rate of taxation in any one year on the value of the taxable property therein than one-half of one per centum; provided, that to pay debts existing on the sixth day of December, eighteen hundred and seventy-five, an additional rate of one-fourth of one per centum may be levied and collected which shall be appropriated exclusively to the payment of such debts and the interest thereon; provided, further, that to pay any debt or liability now existing against any county, incurred for the erection, construction, or maintenance of the necessary public buildings or bridges, or that may hereafter be created for the erection of necessary public buildings, bridges, or roads (a) any county may levy and collect such special taxes, not to exceed one-fourth of one per centum, as may have been or may hereafter be authorized by law. The proceeds of taxes levied under said proviso (a) for public building, road, or bridge purposes in excess of amounts payable on bonds, warrants, or other securities issued by the county may be spent for general county purposes, in such manner as the court of county commissioners, board of revenue, or other like county governing body may determine.

AMENDMENT 269.

In addition to all taxes now or hereafter authorized by the Constitution of Alabama, any county or any incorporated municipality within the state which supports, jointly supports, or proposes to support a public library is hereby authorized to levy and collect a special tax not exceeding five one hundredths of one per centum on the value of the taxable property within such county or municipality as assessed for state taxation, the proceeds of which shall be used exclusively for public library purposes; provided, that the rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of the county or municipality and voted for by a majority of those voting at such election. Elections under this amendment shall be called, held and conducted in the same way as elections on special school district tax levies.

AMENDMENT 325.

Classification of taxable property for purposes of ad valorem taxation; taxable property to be taxed by state, counties, municipalities, etc., at same rate; assessment ratios for purposes of ad valorem taxation; increase or decrease of ad valorem tax rate by counties, municipalities, etc.; exemption of state, county and municipal property and property used for religious, educational or charitable purposes from taxation; legislature may provide exemptions from taxation; interpretation of authority for counties, municipalities, etc., to levy taxes, incur indebtedness, etc., in relation to assessment of property; maximum rate of ad valorem tax in any one taxable year.

- (a) All taxable property within this state, not exempt by law, shall be divided into the following classes for the purposes of ad valorem taxation:

Class I. All property of utilities used in the business of such utilities,

Class II. All property not otherwise classified,

Class III. All agricultural, forest and residential property.

- (b) With respect to ad valorem taxes levied by the state, all taxable property shall be forever taxed at the same rate, and such property shall be assessed for ad valorem tax purposes according to the classes thereof as herein defined at the following ratios of assessed value to the fair and reasonable market value of such property:

Class I. 30 per centum

Class II. 25 per centum

Class III. 15 per centum

- (c) With respect to ad valorem taxes levied by counties, municipalities or other taxing authority, all taxable property shall be forever taxed at the same rate, and such property shall be assessed for ad valorem tax purposes according to the classes of property defined in paragraph (a) herein and at the same ratios of assessed value to the fair and reasonable market value thereof as fixed in paragraph (b) herein, provided, however, that the legislature may vary the ratio of assessed value to the fair and reasonable market value as to any class of property as defined in paragraph (b) herein, and provided, further, that the legislature may fix a uniform ratio of assessment of all property within a county defined in paragraph (a) herein as Class II and III and may fix a different ratio of assessment for property defined in paragraph (a) as Class I. Such ratios as herein authorized may vary among counties so long as each such ratio is uniform within a county.

No class of property shall have a ratio of assessed value to fair and reasonable market value of less than 15 per centum nor more than 35 per centum.

- (d) A county, municipality, or other taxing authority may decrease any ad valorem tax rate at any time, provided such decrease shall not jeopardize the payment of any bonded indebtedness secured by such tax. When the tax assessor of each county shall complete the assembly of the assessment book for his county for the ad valorem tax year immediately following the adoption of this amendment and the computation of ad valorem taxes that will be paid upon such assessment, he shall certify to each authority within his county that levies an ad valorem tax the amount of ad valorem tax that will be produced by every levy in that year but excluding for this purpose any assessment of property added to the tax rolls of such county for the tax year in which such certification is made that was not included on the tax rolls for the next preceding tax year. If it shall appear that the estimated ad valorem tax receipts from any levy so estimated shall be less than the receipts from the same levy during the next preceding ad valorem tax year, then the levying authority shall increase each tax rate by such millage as is necessary to produce revenue that is not less than and that is substantially equal to that received during such immediately preceding tax year. It is further provided that any and all millage adjustments shall be made in increments of not less than 1/2 mill. The adjustment herein required shall be made only one time and shall be made in the ad valorem tax year immediately following the adoption of this amendment.
- (e) Any county, municipality, or other taxing authority may increase the rate at which ad valorem taxes are levied above the limit now provided in the Constitution provided that the proposed increase shall have been (1) proposed by the authority having power to levy the tax after a public hearing on such proposal, (2) thereafter approved by an act of the legislature, and (3) subsequently approved by a majority vote of the qualified electors of the area in which the tax is to be levied or increased who vote on the proposal.
- (f) The legislature is authorized to enact legislation to implement the provisions of this amendment, and may provide for exemptions from taxation; provided, however, that any statutory exemption existing prior to the adoption of this amendment shall not be repealed, except by subsequent legislative act, and shall remain in full force and effect.
- (g) Wherever any constitutional provision or statute provides for, limits or measures the power or authority of any county, municipality or other taxing authority to levy taxes, borrow money, or incur indebtedness in relation to the assessment of property therein for state taxes or for state and county taxes such provision shall mean as assessed for county or municipal taxes as the case may be.
- (h) Any provision of the Constitution of Alabama to the contrary notwithstanding, ad valorem taxes shall never exceed 1 1/2% of the fair and reasonable market value of the property in any one taxable year.
- (i) The following property shall be exempt from all ad valorem taxation: the real and personal property of the state, counties and municipalities and property devoted exclusively to religious, educational or charitable purposes.

AMENDMENT 373.

Classification of taxable property for purposes of ad valorem taxation; taxable property to be taxed by state, counties, municipalities, etc., at same rate; assessment ratios for purposes of ad valorem taxation; increase or decrease of assessment ratios by counties, municipalities, etc.; increase or decrease of ad valorem tax rates by counties, municipalities, etc.; maximum amount of ad valorem tax; certain property to be assessed at current use value and not market value; exemption of certain property from ad valorem taxation; interpretation of authority for counties, municipalities, etc., to levy taxes, borrow money, etc., in relation to assessment of property; counties, municipalities, etc., authorized to levy additional ad valorem tax for costs of certain state-wide reappraisal of property.

- (a) On and after October 1, 1978, all taxable property within this state, not exempt by law, shall be divided into the following classes for the purposes of ad valorem taxation:

Class I. All property of utilities used in the business of such utilities.

Class II. All property not otherwise classified.

Class III. All agricultural, forest and single-family owner-occupied residential property, and historic buildings and sites.

Class IV. All private passenger automobiles and motor trucks of the type commonly known as "pickups" or "pickup trucks" owned and operated by an individual for personal or private use and not for hire, rent or compensation.

- (b) With respect to ad valorem taxes levied by the state, all taxable property shall be forever taxed at the same rate. On and after October 1, 1978, such property shall be assessed for ad valorem tax purposes according to the classes thereof as herein defined at the following ratios of assessed value to the fair and reasonable market value (except as otherwise provided in subsection (j) hereof) of such property:

Class I. 30 per centum.

Class II. 20 per centum.

Class III. 10 per centum.

Class IV. 15 per centum.

- (c) With respect to ad valorem taxes levied by counties, municipalities or other taxing authorities, all taxable property shall be forever taxed at the same rate. On and after October 1, 1978, such property shall be assessed for ad valorem tax purposes according to the classes of property defined in subsection (a) hereof and at the same ratios of assessed value to the fair and reasonable market value thereof as fixed in subsection (b) hereof, except as otherwise provided in subsection (j) hereof and this subsection (such ratios being herein called "assessment ratios"). In connection with the ad valorem taxes that a county, municipality or other taxing authority is authorized or required to levy and collect pursuant to any provision of this Constitution, for the ad valorem tax year beginning October 1, 1978, any such taxing authority may, subject to criteria established by act of the legislature, by resolution of the governing body of that taxing authority, at any time not later than September 30, 1979, increase or decrease the assessment ratio applicable to any class of taxable property, such increase or decrease to be effective for ad valorem tax years beginning on and after October 1, 1978. If (1) a county, municipality or other taxing authority adjusts an assessment ratio pursuant to the preceding sentence and (2) the receipts from all ad valorem taxes levied by or with respect to such taxing authority during the ad valorem tax year beginning October 1, 1978, exceed by more than five percent, or are less than 95 percent of, the receipts from such ad valorem taxes for the ad valorem tax year beginning October 1, 1977, then at any time not later than September 30, 1980, for ad valorem tax years beginning on and after October 1, 1979, the taxing authority may, subject to criteria established by act of the legislature, by resolution of the

governing body of that taxing authority, adjust any assessment ratio applicable to any class of taxable property. On and after October 1, 1979, the governing body of any county, municipality or other taxing authority may, subject to criteria established by act of the legislature, at any time increase or decrease the assessment ratio applicable to any class of taxable property; provided, that any proposed adjustment to an assessment ratio to be made pursuant to this sentence, whether an increase or a decrease, shall have been (1) proposed by the governing body of the taxing authority after a public hearing on such proposal, (2) thereafter approved by an act of the legislature, and (3) subsequently approved by a majority vote of the qualified electors residing in the taxing authority who vote on the proposal at a special election called and held in accordance with the law governing special elections. No decrease in an assessment ratio pursuant to this subsection (c) shall be permitted with respect to either of the ad valorem tax years beginning October 1, 1978, and October 1, 1979, if such county, municipality or other taxing authority has increased any millage rate under subsection (e) of this section with respect to such ad valorem tax year. The legislature shall enact general laws applicable to all counties, municipalities and other taxing authorities regulating and establishing criteria for the exercise of the powers granted such taxing authorities to adjust assessment ratios as hereinabove provided. Such assessment ratios as herein authorized may vary among taxing authorities so long as each such assessment ratio is uniform within a taxing authority. Any decrease in any assessment ratio pursuant to this subsection shall not jeopardize the payment of any bonded indebtedness secured by any tax levied by the taxing authority decreasing the assessment ratio. Any action authorized by this subsection to be taken by a taxing authority, or the governing body thereof, shall, other than in the case of a municipality, be taken by resolution of the governing body of the county in which such taxing authority is located acting on behalf of such taxing authority.

- (d) With respect to ad valorem taxes levied by the state or by any county, municipality or other taxing authority, no class of taxable property shall have an assessment ratio of less than five per centum nor more than 35 per centum.
- (e) A county, municipality or other taxing authority may decrease any ad valorem tax rate at any time, provided such decrease shall not jeopardize the payment of any bonded indebtedness secured by such tax. For the ad valorem tax year beginning October 1, 1978, when the tax assessor of each county shall complete the assembly of the assessment book for his county for that ad valorem tax year and the computation of ad valorem taxes that will be paid upon such assessment, he shall certify to each authority within his county that levies an ad valorem tax the amount of ad valorem tax that will be produced by every levy in that ad valorem tax year but excluding for this purpose any assessment of new taxable property not previously subject to taxation (except "escaped" property as defined by law) added to the tax rolls of such county for the ad valorem tax year in which such certification is made that was not included on the tax rolls for the next preceding ad valorem tax year. Any county, municipality or other taxing authority, at any time not later than September 30, 1979, may increase the rate at which any ad valorem tax is levied by or with respect to that taxing authority above the limit otherwise provided in this Constitution, provided that the amount of the above-described certification of anticipated tax receipts with respect to such tax is less than 120 percent of the actual receipts from such tax for the ad valorem tax year beginning October 1, 1977, such increase to be effective for ad valorem tax years beginning on and after October 1, 1978; provided, that any such millage increase shall not exceed in mills the total of (i) the number of additional mills that is necessary, when added to the millage rate imposed with respect to such tax on each dollar of taxable property situated in the taxing authority for the ad valorem tax year beginning October 1, 1977, to produce revenue that is not less than and that is substantially equal to that received by the taxing authority with respect to such tax during such immediately preceding ad valorem tax year, plus (ii) a number of additional mills equal to 20 percent of the total mills imposed by that taxing authority with respect to such tax on each dollar of taxable property situated in the taxing authority for the ad valorem tax year beginning October 1, 1977. If, for the ad valorem tax year beginning October 1, 1978, the receipts from any ad valorem tax with respect to which any millage rate has been increased pursuant to the immediately preceding sentence are less than 95 percent of the receipts from such ad valorem tax for the ad valorem tax year beginning October 1, 1977, then at any time not later than September 30, 1980, the taxing authority may increase any millage rate with respect to such ad valorem tax in the manner provided in the immediately preceding sentence, such increase to be effective for ad valorem tax years beginning on and after October 1, 1979. It is further provided that all millage adjustments shall be made in increments of not less than one tenth (1/10) mill.

- (f) On and after October 1, 1979, any county, municipality or other taxing authority may at any time increase the rate at which any ad valorem tax is levied above the limit otherwise provided in this Constitution; provided, that the proposed increase to be made pursuant to this subsection shall have been (1) proposed by the governing body of the taxing authority after a public hearing on such proposal, (2) thereafter approved by an act of the legislature, and (3) subsequently approved by a majority vote of the qualified electors residing in the taxing authority who vote on the proposal at a special election called and held in accordance with the law governing special elections. Any adjustments or other actions authorized to be made or taken pursuant to this subsection and subsection (e) hereof shall be made or taken by resolution of the governing body of such taxing authority, or if there is no such governing body and in the case of a taxing authority other than a municipality, by resolution of the governing body of the county in which such taxing authority is located acting on behalf of such taxing authority. The provisions of subsections (c), (e) and (f) of this section shall not apply to ad valorem taxes levied by the state.
- (g) The legislature is authorized to enact legislation to implement the provisions of this section and may provide for exemptions from taxation; provided, that unless otherwise expressly provided, no amendment to this section shall be construed to repeal any statutory exemption existing on the effective date of any such amendment hereto.
- (h) Wherever any constitutional provision or statute provides for, limits or measures the power or authority of any county, municipality or other taxing authority to levy taxes, borrow money or incur indebtedness in relation to the assessment of property therein for state taxes or for state and county taxes, such provision shall mean as assessed for county or municipal taxes, as the case may be.
- (i) Except as otherwise provided in this Constitution, including any amendment thereto whenever adopted with respect to taxable property located in the city of Mountain Brook, the city of Vestavia Hills, or the city of Huntsville, the amount of ad valorem taxes payable to the state and to all counties, municipalities and other taxing authorities with respect to any item of taxable property described as Class I property shall never exceed 2 percent of the fair and reasonable market value of such taxable property in any one ad valorem tax year, such amount with respect to any item of Class II property shall never exceed 1 1/2 percent of the fair and reasonable market value of such taxable property in any one ad valorem tax year, such amount with respect to any item of Class IV property shall never exceed 1 1/4 percent of the fair and reasonable market value of such taxable property in any one ad valorem tax year, and such amount with respect to any item of Class III property shall never exceed 1 percent of the fair and reasonable market value of such taxable property in any one ad valorem tax year. Whenever the total amount of ad valorem property taxes otherwise payable by any taxpayer with respect to any item of taxable property shall exceed in any one ad valorem tax year the maximum amount of such taxes permitted by this section, such amount of taxes shall be reduced by subtracting that amount of tax due that is in excess of the amount of tax otherwise permissible under the Constitution. In connection with the taxation of any item of taxable property, the amount of tax to be subtracted with respect to each authority levying and collecting any ad valorem property tax shall be in the same proportion to the total amount of tax to be subtracted that the total number of mills on each dollar of taxable property situated in the taxing authority levied by such taxing authority bears to the total number of mills on each dollar of taxable property situated in the taxing authority levied by all taxing authorities with respect to such item of taxable property. Before sending to any taxpayer any notice relating to the collection of ad valorem taxes, the tax collector in each county shall determine whether any portion of the amount of ad valorem property tax otherwise due with respect to any item of taxable property shall be subtracted pursuant to the provisions of this subsection and shall apportion the amount to be subtracted in accordance with the provisions of this subsection.
- (j) Notwithstanding any other provision of this section, on and after October 1, 1978, taxable property defined in subsection (a) hereof as Class III property shall, upon application by the owner of such property, be assessed at the ratio of assessed value to the current use value of such taxable property and not the fair and reasonable market value of such property. The legislature may enact laws uniformly applicable to the state and all counties, municipalities and other taxing authorities establishing criteria and procedures for the determination of the current use value of any eligible taxable property and procedures for qualifying such property for assessment at its current use value. The legislature may also enact laws uniformly applicable to the state and all counties, municipalities and other taxing authorities providing for the ad valorem taxation of any taxable

property ceasing to qualify for current use valuation; provided, however, that any additional tax on taxable property ceasing to qualify for current use valuation shall not apply to more than the three ad valorem tax years immediately preceding such cessation of qualification (including as one such year the year in which cessation of qualification occurs).

- (k) The following property shall be exempt from all ad valorem taxation: the real and personal property of the state, counties and municipalities and property devoted exclusively to religious, educational or charitable purposes, household and kitchen furniture, all farm tractors, all farming implements when used exclusively in connection with agricultural property and all stocks of goods, wares and merchandise.
- (l) Notwithstanding the other provisions of this section, with respect to the costs of reappraisal incident to the state-wide reappraisal of property heretofore authorized by the legislature, each county, municipality or other taxing authority for ad valorem tax years beginning on and after October 1, 1978, may impose and levy an additional ad valorem tax of not more than two mills on all taxable property located in the taxing authority in order to reimburse itself for its payment of such costs of reappraisal or to pay any unpaid costs or its pro rata share of such unpaid costs of reappraisal. The taxes provided for in this subsection, or any pro rata part thereof, shall terminate at the end of the ad valorem tax year in which sufficient funds are received from the taxes to pay in full the said reappraisal costs and any receipts from such taxes that are received during the ad valorem tax year of their termination that are not needed for the purposes specified herein may be used by the taxing authority levying the tax for general purposes of the taxing authority. The taxes authorized in this subsection shall not exceed in the aggregate, with respect to any item of taxable property located in the taxing authority, a total of two mills for all such taxes levied by all taxing authorities in a county and not two mills for each taxing authority in a county. If more than one such taxing authority in a county has paid or owes all or a portion of its reappraisal costs, such two mills shall be prorated among such taxing authorities in the county as they may agree, or if they cannot agree, in the percentage which each such taxing authority's costs of reappraisal bear to the total costs of reappraisal of all taxing authorities in the county. The provisions of this subsection shall apply only to the costs incurred by a taxing authority incident to the state-wide reappraisal of property heretofore authorized by the legislature, the amount of which costs shall be certified by the department of revenue, and shall not be applicable to any future reappraisals that may be required by law.
- (m) If any portion of this section should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining portions of this section, which shall continue effective.

AMENDMENT 382.

In addition to any and all taxes now authorized, or that may be hereafter authorized by the Constitution and laws of Alabama, the several school districts of any in the state shall have power to levy and collect an additional special district school tax not exceeding thirty cents on each one hundred dollars worth of taxable property in such district for public school purposes in addition to that now authorized or that may hereafter be authorized for public school purposes; provided, that a school district under this section shall include incorporated cities or towns, or any school district of which an incorporated city or town is a part, or such other school districts now existing or hereafter formed as may be approved by the county board of education; provided, further, that the rate of such tax, the time it is to continue and the purpose thereof shall have been first submitted to the vote of the qualified electors of the district, and voted for a majority of those voting at such election.

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Code of Alabama Sections

Title 1 – General Provisions

Chapter 1 – Construction of Code and Statutes

Section 1-3-8

- (a) Sunday, Christmas Day, New Year's Day, Martin Luther King, Jr.'s birthday, Robert E. Lee's birthday, George Washington's birthday, Thomas Jefferson's birthday, Confederate Memorial Day, National Memorial Day, Jefferson Davis' birthday, the Fourth day of July, Labor Day, Columbus Day and Fraternal Day, Veterans' Day, American Indian Heritage Day, and the day designated by the Governor for public thanksgiving shall each be deemed a holiday. If any holiday falls on Sunday, the following day is the holiday. If any holiday falls on Saturday, the preceding day is the holiday. Veterans' Day shall be observed by the closing of all state, county, and municipal offices, all banks located within this state, and the public schools on such day. Public schools, grades K to 12, inclusive, and all public two-year institutions of higher education shall also be closed on National Memorial Day, and such closing shall be applicable to all students and non-essential employees. The Superintendent of Banks, with the concurrence of not less than two members of the state Banking Board, may authorize any state bank to close on National Memorial Day, the last Monday in May, and on such other days as may be declared by the Governor to be state holidays in honor of a special event. If any authorized state holiday falls on Friday, the Superintendent of Banks may authorize the Saturday following that Friday to be a holiday. The superintendent may also authorize the closing of banks at 12:00 noon on the day prior to Christmas Day, and the day prior to New Year's Day, if such days fall on business days.
- (b) Of the above enumerated legal public holidays, the following shall be observed on the dates herein prescribed:
- (1) Robert E. Lee's birthday – the third Monday in January.
 - (2) George Washington's birthday – the third Monday in February.
 - (3) Confederate Memorial Day – the fourth Monday in April.
 - (4) Jefferson Davis' birthday – the first Monday in June.
 - (5) Columbus Day and Fraternal Day – the second Monday in October.
 - (6) Veterans' Day – the eleventh day of November.
 - (7) Martin Luther King, Jr.'s birthday – the third Monday in January.
 - (8) National Memorial Day – the last Monday in May.
 - (9) Thomas Jefferson's birthday – the third Monday in February.
 - (10) American Indian Heritage Day – the second Monday in October.
- (c) In addition to the legal holidays provided above, Mardi Gras shall be deemed a holiday in Mobile and Baldwin Counties and all state offices shall be closed in those counties on Mardi Gras.

- (d) In addition to the legal holidays provided above all state employees, except those employed in Baldwin and Mobile Counties, shall be granted one personal leave day per year. The personal leave day shall be granted on January 1 of each year. All state employees employed in Baldwin and Mobile Counties shall be granted no personal leave day. All such personal leave days granted in any year shall be used by the end of the calendar year. All such personal leave days shall be scheduled during the year with the approval of the supervisor. Supervisors failing to schedule personal leave days for employees shall justify that action in writing to the Director of State Personnel and the employee shall receive pay at a rate not less than the employee's usual and customary rate of pay for any personal leave day not taken by December 31 of each year.
- (e) All state holidays shall be observed by the closing of all state offices. Any state office may remain open on a state holiday upon written notice by the appointing authority to the State Personnel Board at least 60 days in advance of the holiday. Provided, that any state office may be opened in the event of an emergency and the State Personnel Board may grant a blanket approval for the openings of state offices needing to be open on holidays on a regular basis for essential services. Any state employee working on a state holiday shall receive a day of compensatory leave or paid compensation in lieu of the holiday as provided herein.
- (f) Each employee shall attempt to schedule any compensatory leave day provided in lieu of a regularly scheduled holiday, subject to the approval of the supervisor, during the quarter that the regularly scheduled holiday occurred. If any compensatory leave day cannot be scheduled during the designated quarter, the compensatory leave day may be accumulated at the request of the employee for up to one year. Supervisors failing to schedule compensatory leave days for employees within the quarter, unless the day is carried forward at the request of the employee, shall justify that action in writing to the Director of State Personnel and the employee shall receive pay at a rate not less than the employee's usual and customary rate of pay for any compensatory leave day to which the employee may be entitled and which has not been taken.

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Title 11

Counties and Municipal Corporations

Chapter 1 – General Provisions

Section 11-1-1

The state is divided into 67 counties, named: Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dale, Dallas, DeKalb, Elmore, Escambia, Etowah, Fayette, Franklin, Geneva, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, Shelby, St. Clair, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox and Winston.

Section 11-1-8

The county commission of any county in the state of Alabama may by resolution close the offices in the county courthouse or other county buildings on legal holidays set pursuant to Section 1-3-8, or for special circumstances deemed necessary or appropriate. Notice of the closing shall be posted at the courthouse and shall be published otherwise in the manner as the county commission may direct. In the event that any documents required to be filed by a time certain deadline cannot be filed in a timely manner due to the closing of an office under this section, the deadline for filing shall be extended to the date that the office is reopened as provided in Section 1-1-4.

Section 11-1-15

- (a) The county commission of each of the several counties of the state shall be authorized to join and to participate in a national and state association of county commissions organized for the purpose of promoting better county government, economy, efficiency in office and representing the interests of the several counties before state departments, the state legislature and the United States congress.
- (b) The county commissions of the several counties shall be authorized to appropriate for the maintenance and support of such associations such sums as it may deem necessary and appropriate.

Chapter 2A – Compensation of County Officials

Section 11-2A-1

- (a) For purposes of determining the amount of annual compensation which a county shall pay to a county commissioner, a judge of probate, a sheriff, a tax assessor, a tax collector, a revenue commissioner, a license commissioner, and an elected assistant tax assessor or collector, the 67 counties of the state shall be placed in categories based on population according to the most recent federal decennial census.
- (b) The population categories of counties are as follows:
 - (1) CATEGORY 1. Population in excess of 450,000.
 - (2) CATEGORY 2. Population from 350,001 to 449,999.

- (3) CATEGORY 3. Population from 200,001 to 350,000.
- (4) CATEGORY 4. Population from 50,001 to 200,000.
- (5) CATEGORY 5. Population from 19,000 to 50,000.
- (6) CATEGORY 6. Population of less than 19,000.

Section 11-2A-2

Effective October 1, 2000, the annual compensation which a county shall pay to a county commissioner, a judge of probate, a sheriff, a tax assessor, a tax collector, a revenue commissioner, a license commissioner, and an elected assistant tax assessor or collector shall be as set out below:

- (1) SHERIFF. The annual minimum compensation for each sheriff shall be fifty thousand dollars (\$50,000) which shall be in lieu of any salary and expense allowance currently provided to a sheriff receiving total compensation less than the minimum. Beginning with the next term of office for each sheriff, except as provided in Section 11-2A-4, the salary herein provided shall be the minimum compensation payable to the sheriff in lieu of any salary, expense allowance, or other compensation provided by law.
- (2) COUNTY COMMISSIONERS AND JUDGES OF PROBATE. The annual minimum compensation for county commissioners and judges of probate in Categories 1 and 2 shall be as provided by local law. Except as otherwise provided in this chapter and subject to the provisions of Section 11-2A-4, the annual compensation for county commissioners and judges of probate in Category 3 shall be increased by 20 percent effective October 1, 2001, if the compensation, including expense allowance, of the office has not been increased by other general or local law during the period from October 1, 1996, to October 1, 2001; the annual minimum compensation for county commissioners and judges of probate in Category 4 shall be that amount prescribed by general law on September 30, 2000, plus a 20 percent increase; the annual minimum compensation for county commissioners and judges of probate in Category 5 shall be that amount prescribed by general law on September 30, 2000, plus a 17 percent increase; and the annual minimum compensation for county commissioners and judges of probate in Category 6 shall be that amount prescribed by general law on September 30, 2000, plus a 15 percent increase.
- (3) TAX ASSESSORS, TAX COLLECTORS, REVENUE COMMISSIONERS, LICENSE COMMISSIONERS, AND ELECTED ASSISTANT TAX COLLECTORS OR ASSESSORS.
 - a. On and after June 1, 2000, each county commission is authorized to provide an expense allowance to the tax assessor, tax collector, revenue commissioner, license commissioner, elected assistant tax assessor, and elected assistant tax collector in amounts not to exceed ten thousand dollars (\$10,000) per annum. The expense allowance may be phased in over a two-year period as determined by the county commission. At the beginning of the official's next term of office following the provision of the expense allowance authorized herein, the expense allowance shall be included in the base salary of the official and the expense allowance thereupon voided. Deductions from the expense allowances provided under this chapter shall be made for supernumerary programs, the State Employees' Retirement System, or other retirement programs as provided by law, the same as if the expense allowances were salary. Notwithstanding the above, in Category 3, an expense allowance for any official covered by this subdivision shall be provided in the amount of ten thousand dollars (\$10,000) per annum effective October 1, 2001, if compensation for the office has not been increased by other general or local law during the period from October 1, 1996, to October 1, 2001.
 - b. Any increase in base salary or expense allowance for a tax assessor, tax collector, revenue commissioner, license commissioner, elected assistant tax assessor, or elected assistant tax collector contained in any act passed in the 1999 2nd Special Session of the Legislature or any other act passed in the 2000 Regular Session shall be credited against any expense allowance provided under this

subdivision, so that the total increase in compensation for a tax assessor, tax collector, revenue commissioner, license commissioner, elected assistant tax assessor, and elected assistant tax collector does not exceed ten thousand dollars (\$10,000).

- (4) Any laws to the contrary notwithstanding, no person holding supernumerary office shall be entitled to any increases in compensation or expenses as a result of the implementation of any salary adjustments provided for in this chapter.
- (5) If implementation of the salaries in this chapter increases the salary of an incumbent office holder, the increase shall be paid as an expense allowance until the beginning of the next term of office whereupon the amount of the expense allowance shall be included in the base salary for the office holder and the expense allowance shall be voided. Deductions from the increase shall be made for supernumerary programs as provided by law as if the increase were salary. Notwithstanding the foregoing, a county shall pay the salary increase during a term of office at the beginning of the next fiscal year if payment of the increase is sanctioned by an amendment to the Constitution of Alabama of 1901.
- (6) Notwithstanding this section or any other provision of this chapter, the increases in fees under Section 12-19-90 provided for by Act 2000-108 shall not apply to any county in Category 1 or 3 on June 1, 2000.
- (7) The local governing body of the county may, by resolution, elect for the county to be exempt from the provisions of this section and Section 11-2A-3 and the increases in fees in Section 12-19-90 as provided for by Act 2000-108; provided that the local governing body shall only be authorized to exempt the county from all of the sections referenced above, and provided further that the resolution is adopted after June 1, 2000, but prior to October 1, 2000. Any local governing body that exercises its authority under this subdivision may elect to have the county become subject to the provisions referenced above by the adoption of a resolution and the provisions shall become effective in the county on September 30, next following the adoption of the resolution.
- (8) Any county identified as a "Category 1" county under the provisions of Section 11-2A-1, is exempt from the provisions of this section.

Section 11-2A-3

In addition to the salary provisions set out in Section 11-2A-2, the following shall apply:

- (1) Any full-time county commission chairperson in Category 4, 5, or 6 who is elected countywide shall receive additional annual compensation in an amount of five thousand dollars (\$5,000). This additional compensation shall be paid beginning on October 1, 2000.
- (2) Any judge of probate in Category 4, 5, or 6 shall receive an additional two thousand five hundred dollars (\$2,500) in annual compensation if he or she is required to serve as chairperson of the county commission. This additional compensation shall be paid beginning on October 1, 2000.
- (3) Any local official charged by law with the administration of a "one-stop" tag program shall receive annual compensation for such administration in an amount not less than three thousand dollars (\$3,000). Any additional compensation necessary to increase the official's salary to three thousand dollars (\$3,000) per year for such administration shall be paid beginning on October 1, 2000. The provisions of this subdivision shall not affect any local law that provides annual compensation for the administration of the "one-stop" tag program in excess of three thousand dollars (\$3,000).

Section 11-2A-4

- (a) Beginning with the fiscal year commencing on October 1, 2001, the local officials covered by this chapter shall be entitled to the same uniform increases in compensation, including cost-of-living increases, longevity increases, merit raises, and bonuses that are granted to county employees by the county commission at the time of the approval of the county budget. The increases shall be in the same amount or percentage, as the case may be, as that amount or percentage increase provided to the county's employees; provided, however, no tax assessor, tax collector, revenue commissioner, license commissioner, elected assistant tax assessor, or elected assistant tax collector shall receive an expense allowance as provided in subdivision (3) of Section 11-2A-2 and an increase under this subsection in the same fiscal year.

Except as otherwise provided herein, officials in Category 2 shall be eligible for the cost-of-living increases beginning on October 1, 2000. If the implementation of any cost-of-living adjustment increases the salary of an incumbent office holder, the increase shall be paid as provided in subdivision (5) of Section 11-2A-2. The base compensation for the purposes of implementation of this subsection shall be that compensation established on October 1, 2000, and shall remain those respective amounts until increased as provided under the provisions of this chapter.

- (b) Any provision of this chapter to the contrary notwithstanding, the Legislature, by local law, may increase the compensation for local officials covered under this chapter. However, if a local law increases the compensation of a local official, such local official shall not be entitled to any cost-of-living adjustments pursuant to the procedure in subsection (a), until such time as the total compensation he or she would have received under subsection (a) is equal to or exceeds the increase provided by the local law.

Section 11-2A-5

This chapter shall be read in pari materia with Section 40-6A-2. All compensation paid under the provisions of this chapter to tax assessors, tax collectors, revenue commissioners, license commissioners, elected assistant tax assessors, or elected assistant tax collectors, or any official whose salary is prorated under the provisions of Section 40-6A-2, shall continue to be prorated and paid from the same funds and in the same manner as provided under that section.

Section 11-2A-6

Except for officials affected by subdivision (3) of Section 11-2A-2, no local official receiving compensation in excess of the minimums prescribed by general law on September 30, 2000, plus the increases provided in Section 11-2A-2 shall be eligible to receive the increases authorized by Section 11-2A-2.

Section 11-2A-7

- (a) This chapter shall not be applicable to local officials whose salaries, prior to March 8, 2000, are tied to the salaries of any state elected officials nor shall this chapter apply to local officials on a fee system of compensation, except as provided in Section 11-2A-8. Any local act in effect on October 1, 2000, providing compensation for a local official in excess of the compensation authorized by this chapter shall remain in full force and effect until expressly amended or repealed by the Legislature.
- (b) The provisions of this chapter and Section 12-19-90 shall not be applicable in Barbour, Tuscaloosa, Cullman, St. Clair, Pike, Henry, Coffee, Russell, Geneva, Dale, or Fayette Counties unless first approved by resolution of the respective county commission.
- (c) The provisions of Sections 11-2A-2 and 11-2A-3 shall not be applicable in Pickens County unless first approved by resolution of the county commission.

- (d) Provided, however, that if any of the counties listed in subsection (b) or (c) adopt a resolution after October 1, 2000, to come under the provisions of this chapter and the increases in fees under Section 12-19-90, as provided in Act 2000-108, the provisions of Sections 11-2A-2 and 11-2A-3, and the increases in fees under Section 12-19-90, as provided in Act 2000-108, will not become effective in such counties until the beginning of the next succeeding fiscal year.
- (e) Any county identified as a “Category 1” county under the provisions of Section 11-2A-1, is exempt from the provisions of this section.

Section 11-2A-8

Any judge of probate on the fee system shall not be subject to any cap on income after October 1, 2000.

Chapter 3 – County Commission

Section 11-3-1

- (a) Any person who is a qualified elector of the county and has resided in the county for at least one year prior to the date upon which he or she would take office is eligible to seek office as county commissioner. In counties where the county commissioners represent a certain district, any person seeking office as county commissioner shall be a qualified elector of and reside within the district which he or she seeks to represent upon election or appointment for at least one year prior to the date that he or she would take office. Notwithstanding the foregoing, the one-year residency requirement provided above shall not apply to the first election following any redistricting of county commission districts in a county. Any person serving as county commissioner, at all times while in office, shall meet the qualified elector and residency requirements set out herein, and in the case of a district commissioner shall reside in the district as it existed at the time of his or her election.
- (b) Unless a local law authorizes a special election, any vacancy on the county commission shall be filled by appointment by the Governor. If the appointment occurs at least 30 days before the closing of party qualifying as provided in Section 17-13-5, the person appointed to the vacated office shall only serve until seven days after the next general election following the appointment as provided herein. The person so appointed to fill the vacancy shall meet the residency requirements in subsection (a), and shall hold office from the date of appointment until the eighth day following the next general election. If the original term in which the vacancy occurred would not have expired on the eighth day following the next general election after the appointment, the person elected at the election required by operation of this subsection shall serve for a period of time equal to the remainder of the term in which the vacancy was created. Thereafter, election for the county commission seat shall be as otherwise provided by law.
- (c) Unless otherwise provided by local law, by court order, or governed by Section 11-80-12, and as otherwise provided in subsection (d), there shall be in every county a county commission, composed of the judge of probate, who shall serve as chairman, and four commissioners, who shall be elected at the time prescribed by law and shall hold office for four years until their successors are elected and qualified.
- (d) Notwithstanding any other provision of law related to election canvassing, certification, or contest, the term of office for county commissioner shall commence at 12:00 a.m. on the second Wednesday following the general election at which he or she is elected and shall expire at 11:59 p.m. on the first Tuesday following the day of the general election at which the successor to that office is elected.
- (e) Each county commission shall meet on the Wednesday following the election and tabulation of provisional ballots pursuant to Section 17-10-2 of any one of its members whose term commences on that day pursuant to subsection (d), and at this meeting, shall establish the regular meeting days for the county commission as provided in Section 11-3-8. The meeting shall be in lieu of any meeting of the county commission required

by law to be held within the same calendar week and shall be in all respects and for all purposes a regular meeting of the county commission. The county commission shall not meet following the election of any one of its members until the meeting provided by this subsection, unless there is a declared emergency.

An emergency may be declared for the purposes of this subsection upon a unanimous vote of the entire membership of the county commission.

- (f) Except as specifically provided in subsections (b) and (c), this section applies in all counties and may not be altered or amended by local law. Any existing local law or portion thereof in conflict with this section is specifically repealed to the extent of the conflict effective with the next election following September 1, 2007. It is the intent of the foregoing that a portion of a local law in direct conflict with this section shall be repealed, and any remaining portions of the local law not in conflict shall remain in full force and effect.

Section 11-3-4

Each member of the county commission, including the judge of probate when he or she serves as chair of the county commission shall be entitled to reimbursement of all actual travel expenses, other than mileage, and mileage at the mileage rate allowed by the Internal Revenue Code for income tax deduction while traveling in his or her personal vehicle within or outside of the county, in performing the duties of the office of county commissioner. Reimbursement shall be paid on warrants drawn on the county treasury on the order of the county commission provided he or she presents proper documentation of such expenses under procedures adopted by the county commission and in compliance with Article 1, commencing with Section 36-7-1, of Chapter 7 of Title 36. This section shall not operate to repeal or amend any local law affecting any county with respect to the matters contained in this section. In the discretion of the county commission, the mileage reimbursement authorized herein may be paid out of the county gasoline tax revenues when the mileage is incurred by a member while occupied in the discharge of his or her duties in inspecting, accepting, building, repairing, or supervising any of the county roads or bridges. Travel reimbursement based on number of miles traveled and/or actual expenses incurred shall not be deemed to constitute salary compensation under this section, Section 11-3-4.1, or Chapter 2A of this title.

Section 11-3-4.1

- (a) For the purposes of this section, Section 11-3-4, and Chapter 2A of this title, the following terms shall have the following meanings:
 - (1) COUNTY COMMISSION CHAIRMAN. Those persons elected or appointed to such office by any and all lawful means but, except where specifically provided, shall not include those persons who serve as chair by virtue of their having been elected or appointed as judge of probate of the county.
 - (2) COMPENSATION. All salary, expense allowance, or any other compensation received for serving as commissioner or chair of the county commission, but shall not include any reimbursement for mileage traveled or actual and necessary expenses incurred which are otherwise payable by law.
 - (3) LOCAL LAW. Any and all applicable statutes that apply to any part of the state which is less than the whole and shall include statutes otherwise known as "general laws of local application" or "population bracket acts."
- (b) No county commissioner shall receive compensation for serving as such officer, that is less than \$14,600.00 per year. No county commission chairman shall receive compensation for serving as such officer, that is less than \$18,600.00 per year.
- (c) No county commissioner that is required by local law to serve full time as county commissioner, shall receive compensation for serving as such officer, that is less than \$25,000.00 per year. No county commission

chairman that is required by local law to serve full time as county commission chairman, shall receive compensation for serving as such officer, that is less than \$30,000.00 per year.

- (d) The provisions of this section shall in no way affect the compensation of county commissioners or county commission chairmen whose compensation is in excess of the minimum provided herein. Nor shall such provisions in any way affect subsequent local laws or general laws which provide compensation in excess of such minimums. Nor shall such provisions apply unless approved by a resolution of the county governing body. The resolution to adopt the pay raise must be published in the local newspaper for four consecutive weeks before the commission takes final action on the resolution. The provisions of this section shall in no way affect the compensation of judges of probate. All compensation affected hereby shall be payable from the respective county's general fund or any other fund from which the officer's compensation may now be paid by law.
- (e) The provisions of this section which serve to increase any commissioner's or county commission chair's compensation shall not take effect until the first day of the next term of office for the official; provided however where the county commission members' terms do not run concurrently, any increase provided under this section shall become effective as to all the members thereof immediately after the expiration of the term or terms of office of the member or members whose term or terms first expire.
- (f) This section shall be read in para materia with Chapter 2A of this title and where a county is covered by the provisions of that chapter, this section shall be applicable only for the purpose of the calculation of annual minimum compensation to be paid to a county commissioner pursuant to subdivision (2) of Section 11-2A-2.

Section 11-3-7

A majority of members serving on a county commission shall constitute a quorum. A judge of probate or chair elected countywide shall be considered a member of the county commission for purposes of determining a quorum. No ordinance, resolution, policy, or motion shall be voted on and approved by a county commission unless a quorum is present in the meeting chamber while the vote is taken and the matter is approved by an affirmative vote of the majority of the members present and voting, unless otherwise required by Alabama law.

Section 11-3-8

- (a) At the first county commission meeting held pursuant to Section 11-3-1 following each election of county commissioners, the county commission shall establish the day or days of each month on which regular meetings of the county commission shall be held. A county commission, by resolution, may alter the regular meeting days as necessary. The regular meeting days and the time and place where the meetings will be held shall at all times be posted in a public and conspicuous location in the courthouse and in other public buildings determined appropriate by the county commission and shall be forwarded to all local news media who have on file with the county commission a written request for notification of the schedule of regular meetings of the county commission.
- (b) A county commission may schedule a special meeting when determined necessary in writing by a majority of the members of the commission, or in case of an emergency, upon call of the chair. The purpose for and agenda of the meeting shall be included in all public notices of the meeting, and no other items shall be considered at the special meeting. Upon scheduling, except in an emergency, at least five days prior to the special meeting, notice of the meeting time, place, and agenda shall be posted in a public and conspicuous location in the courthouse and in other public buildings determined appropriate by the county commission and shall be forwarded to all local news media who have on file with the county commission a written request for notification of special meetings of the county commission.
- (c) When a regular meeting day of a county commission falls on a legal public holiday, the county commission may meet on any day of the following week instead of on the holiday, or at another time determined by the

county commission, provided that at least five days prior to the meeting, notice of the meeting time and place shall be posted in a public and conspicuous location in the courthouse and in other public buildings determined appropriate by the county commission and shall be forwarded to all local news media who have on file with the county commission a written request for notification of the schedule of regular meetings of the county commission.

- (d) All meetings scheduled and held as provided herein shall be deemed to be in compliance with the notice provisions of Chapter 25A of Title 36.

Section 11-3-11.

- (a) The county commission shall have authority:

- (1) To direct, control and maintain the property of the county as it may deem expedient according to law, and in this direction and control it has the sole power to locate the courts in the rooms of the courthouse and to designate the rooms to be occupied by the officers entitled to rooms therein, including the circuit judge if resident in the county, and to change the location of the courts and the designation of the rooms for officers as it may deem best and most expedient, and this shall be done by order of the county commission entered upon the minutes of the county commission at a regular meeting of the county commission. In the event the courthouse is inadequate to supply office rooms for such officers, the county commission may lease such office rooms in a convenient location in the county site and pay the rental from the county fund.
- (2) To levy a general tax, for general county purposes and a special tax, for special purposes, according to this Code.
- (3) To examine, settle and allow all accounts and claims chargeable against the county.
- (4) To examine and audit the accounts of all officers having the care, management, collection or disbursement of money belonging to the county or appropriated for its use and benefit.
- (5) To make such rules and regulations for the support of the poor in the county as are not inconsistent with any law of the state.
- (6) To punish for contempt by fine not exceeding \$10.00 and imprisonment not exceeding six hours.
- (7) To subpoena, examine and compel the attendance of witnesses and the production of books and papers before the county commission in the same manner as the probate court.
- (8) To contract for and have made map or plat books showing all subdivisions of land that have been heretofore or that may hereafter be made in the county.
- (9) To compromise on such terms as it may deem just all doubtful claims in favor of the county when such claims arise on account of moneys heretofore paid in good faith by order of such county commission or in any case where they deem it to the best interest of the county.
- (10) To make an appropriation, in no case to exceed \$750.00 per year, to install and maintain an exhibit of the agricultural and mineral resources of the county.
- (11) To pay at the regular legal rate for the advertising of notice and substance of local bills which may be introduced in the legislature for the benefit of the county, or in reference to subjects or matters exclusively relating to county business or affairs.

- (12) To procure and provide telephones for the offices of the circuit judge, the clerk and register of the circuit court, the sheriff and jailer, the tax assessor and tax collector and the judge of probate in the county, and to pay for the same out of the general funds of the county, and said county commission may, in like manner and for the same officers, establish telephones in both courthouses where the said officers maintain two offices in the county and must install such telephone upon the request of the officer entitled thereto.
- (13) To make appropriations out of the county treasury to pay premiums on livestock that may be exhibited in livestock shows held in the county.
- (14) To appropriate, where the state or federal authorities have taken up the works of farm demonstration or the organization of farm life clubs for the promotion of agriculture, such sum or sums as it may deem adequate and necessary for aiding in such work.
- (15) To expend money for the purpose of improving the sanitary conditions of the county by laying trunk lines of sewers and constructing sewage disposal plants located in localities contiguous to thickly populated communities and to prescribe the terms on which the owners of houses or householders may connect with such lines of sewers, but no such lines of sewers shall be laid without the written approval of the executive officer of the state board of health, such approval to be based on the belief that the laying of any proposed line will materially improve health conditions. The county commission shall have the power to require owners of property in the county to connect to its sewer system any facilities used in the collection or disposal of sewage. If the owner of any property in the county fails to connect any such facility located on such property to such sewer within 10 days after delivery to the occupant of such property of written notice to make such connection, the county commission may cause such connection to be made and shall have the right to enter upon private property to the extent required to make such connection. The cost to the county of connecting to such system any facility used in the collection or disposal of sewage shall be reimbursed to the county by the owner of the property on which such facility is located, and the obligation of the owner of such property to pay such cost to the county shall be secured by a lien on such property to be collected as other debts are collected or liens enforced. The notice required by this subdivision shall be by personal service or by posting a notice on the premises. Any other provisions of this subdivision to the contrary notwithstanding, no county commission shall have the power to require any owner of property to connect to a county sewer system if (i) the property of such owner is served by any other sewer system as of the date (the "prospective connection date") that the construction of such county sewer system has advanced to the point that operational sewer lines belonging to such system are adjacent to the property of such owner, (ii) the property of such owner is served by a septic tank installed as of the prospective connection date, or (iii) any building to be served by such county sewer system is located on the property of such owner at a distance greater than 200 feet from the collector line of such county sewer system.
- (16) To appropriate money to promote or enforce the health and quarantine laws of the state for the benefit of the county and its inhabitants when requested so to do by the state board of health.
- (17) To pay out of any funds in the county treasury all the expenses, including a reasonable attorney's fee, incurred by the county treasurer in resisting the payment of any warrant where said resistance on the part of the county treasurer is successful.
- (18) To set aside such part of the revenue of the county as may be deemed expedient for the purpose of creating a sinking fund for the payment of bonds or other indebtedness and to invest such sinking fund in such interest-bearing securities or deposit the same on interest-bearing account within the state as it may deem wise.
- (19) To set aside, appropriate and use county funds or revenues for the purpose of developing, advertising and promoting the agricultural, mineral, timber, water, labor and all other resources of every kind of the county and for the purpose of locating and promoting agricultural, industrial and manufacturing plants, factories and other industries in the county. The county commission is authorized to enter into contracts with any person, firm, corporation or association to carry out the purposes set forth in this subdivision.

- (20) To insure in solvent companies the courthouse, jail, machine shops and other buildings of the county against loss by fire and storm and the trucks, tractors, machines, shovels, graders, equipment, vehicles and other personal property of the county against loss by fire and theft and against liability for damages to persons and property. Payment of premiums on such insurance coverage shall be made from the general fund of the county, except that payments of premiums on insurance coverage on vehicles, items of equipment or other personal property used and employed exclusively in connection with the establishment, construction, repair and maintenance of the public roads and bridges of the county may be made from the gasoline funds of the county and payments of premiums on insurance coverage on the courthouse, jail, machine shops and other buildings of the county may be made from the proceeds of special taxes levied for erection, repairing, furnishing or maintenance of public buildings, bridges or roads. Payments heretofore made for these purposes are validated.
- (21) To use convict labor and any county equipment or machinery or expend any necessary sum of money for the improvement, beautification or decoration of the grounds, campus or premises of any county school or schools under the control of the board of education in such county.
- (22) To exercise such other powers as are or may be given by law.
- (b) It shall be the duty of the county commission to provide a janitor for the courthouse and to see that the janitor keeps clean and in a sanitary condition all courtrooms, corridors, halls and offices in the courthouse of the county

Section 11-3-11.1.

The action of the governing body of any county in levying, authorizing, adopting, assessing, collecting and enforcing any excise, privilege or license tax levied, assessed, collected and enforced on the effective date hereof is hereby ratified, approved, validated and confirmed, regardless of any defect which might exist in the authorization, adoption, levy, assessment, collection or enforcement of any such tax, including, without limitation, defects in the adoption of any underlying act of the legislature authorizing such authorization, adoption, levy, assessment, collection or enforcement, any failure to publish any notice which might otherwise be required with respect to any of the foregoing, or any failure by any such governing body to comply with any statutory requirement with respect to any of the foregoing matters; provided that this section shall not apply to any such tax, the validity of which is on the effective date hereof being challenged in any proceeding pending in any court in this state.

Section 11-3-11.2.

- (a) The county commission may, by ordinance or resolution, administer and collect, or contract for the collection of, any local sales and use taxes or other local county taxes levied or authorized to be levied by a general or local act. Where the county commission provides by ordinance or resolution for the administration and collection of the local taxes, the collection of the local sales and use taxes shall occur at the same time as state sales and use taxes are due to be paid to the Department of Revenue, unless otherwise provided by law.
- (b) Any county commission which elects to administer and collect, or contract for the collection of, any local sales and use taxes or other local taxes, shall have the same rights, remedies, power and authority, including the right to adopt and implement the same procedures, as would be available to the Department of Revenue if the tax or taxes were being administered, enforced, and collected by the Department of Revenue. Any rules and regulations adopted or utilized by the county or its designee shall be consistent with the rules and regulations adopted through the provisions of the Alabama Administrative Procedure Act by the Department of Revenue for the corresponding state tax. If a specific provision of the rules and regulations of the Department of Revenue is inconsistent with a specific provision of a local act, resolution, or general law authorizing or levying a local tax, including a gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8), which was enacted or adopted prior to February 25, 1997, the local act, resolution, or general law provision shall prevail. Any taxpayer that possesses a direct pay permit issued by the Department

of Revenue shall pay to the county the sales and use taxes and other county taxes pursuant to the direct pay permit in accordance with rules and regulations promulgated by the Department of Revenue.

- (c) In any county in which there exists on February 25, 1997, a local act which authorizes a county commission only to contract with a designee to administer and enforce any tax enacted by the county, the tax or taxes shall continue to be collected and enforced by a designee pursuant to the provisions of the local act, unless the local act is amended to provide otherwise or repealed.
- (d) A county commission which elects to administer and collect, or contract for collection of local taxes pursuant to subsection (a), may retain, as its fee for the cost of collection of its local taxes no more than five percent of the tax proceeds or the county's actual cost of collection, whichever is less. Notwithstanding the previous sentence, in any county in which there exists on February 25, 1997, a local act which establishes or limits the amount which can be retained by the county for costs of collection or which limits the amount that can be paid by the county to a designee for providing collection and enforcement services, the provisions in the local act with regard to the costs and amounts shall continue to have force and effect unless the local act is amended to provide otherwise or is repealed.

Section 11-3-11.3.

- (a) Counties may, upon request of the county commission, engage the Department of Revenue to collect any county sales, use, rental, lodgings, tobacco, or other local taxes for which there is a corresponding state levy. Subject to subsections (d) and (e) below, the department shall collect a county sales, use, rental, lodgings, tobacco, or other tax for which there is a corresponding state levy on behalf of the requesting county. Any county sales, use, rental, or lodgings tax levy administered and collected by the Department of Revenue pursuant to this section, whether the levy is imposed pursuant to the authority of Section 40-12-4, or any general, special, or local act of the Legislature, shall parallel the corresponding state tax levy, except for the rate of tax, and shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules, regulations, direct pay permits and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions as applicable to the corresponding state tax, except where otherwise provided in this section, including provisions for the enforcement and collection of taxes. The Department of Revenue shall make available to those counties for which it collects a sales, use, rental, or lodgings tax collected pursuant to this section the same services which are made available to municipal governments pursuant to Division 4 of Article 2 of Chapter 51 and Article 3 of Chapter 51.
- (b) The Department of Revenue shall prepare and distribute those reports, forms, and other information as may be necessary to provide for its collection of any county tax it collects and, on request, shall make all reports available for inspection by the governing body of the county. In collecting a county sales, use, rental, or lodgings tax, the department shall have all the authority and duties as it has in connection with the collection of the corresponding state tax including, without limitation, the provisions of Chapters 2A, 12, 23, and 26 of Title 40.
- (c)
 - (1) The Commissioner of Revenue shall deposit into the State Treasury all county taxes collected and, on a biweekly basis, shall certify to the state Comptroller the amount of taxes collected for the approximate two-week period immediately preceding the certification and the amount, less the Department of Revenue's actual cost of collection, to be distributed to each county and which shall be paid to the treasurer or other custodian of funds of the county within three days after certification thereof.
 - (2) The department shall charge each county the actual cost to the department for collecting a tax. Notwithstanding the preceding sentence, however, the charge shall not exceed two percent of the amount collected for each county. At least once each month, the state Comptroller shall issue a warrant to the Department of Revenue for the collection charges due as determined by the Commissioner of

Revenue. Payment shall be from funds collected under this section and shall be the actual cost of collection, not to exceed two percent of the amount collected for each county.

- (3) Within 60 days after the end of each fiscal year, the department, in cooperation with the office of the Examiner of Public Accounts, shall recompute its actual costs for collection of county taxes for the preceding fiscal year. Any collection over-charge shall be redistributed to the counties for which the department collects local taxes, on a pro rata basis of each county's receipts. No under-charge shall be recovered, either directly or indirectly, from any county.
- (d) Except where the department is collecting on July 1, 1998, any county which has a tax levy that will be collected by the Department of Revenue pursuant to the provisions of this section shall forward a certified copy of the enabling ordinance or resolution to the department at least 30 days prior to the first day of the month on which it is to begin collecting the tax.
- (e) A new levy, or a levy changed by an amendment of a heretofore adopted levy, which will be collected under this section shall not be subject to collection by the Department of Revenue until the first day of the month next following the expiration of 30 days after receipt by the department of a certified copy of the enabling ordinance or resolution with any amendment thereto.
- (f) The Department of Revenue shall from time to time issue such rules and regulations for making returns and for ascertainment, assessment, collection, and administration of taxes subject to the provisions of this section as it may deem necessary to enforce its provisions and shall furnish any municipal or county government with a copy of those rules and regulations within 15 days of final adoption. Upon request, the Department of Revenue shall furnish any taxpayer with a copy of those rules and regulations.
- (g) Any self-administered county governing body, as defined in Section 40-2A-3(20), may elect, by the adoption of an ordinance or resolution, to assess interest on any tax delinquency. Any such assessment of interest shall be consistent with the provisions of Section 40-23-2.1. Any self-administered county governing body may also elect, by the adoption of an ordinance or resolution, to pay interest on any refund of tax erroneously paid. In the event that the governing body elects to assess interest on any tax delinquency, the governing body must also elect to pay interest, at the same rate charged by the county on tax delinquencies, on any refund of tax erroneously paid. Unless otherwise specified in the ordinance or resolution in which the county governing body elects to assess or pay interest determined in accordance with Section 40-1-44, the applicable interest rate to be charged by or due from the county shall be one percent per month. References in this subsection to "erroneously paid" taxes on which interest shall be due to the taxpayer shall only mean and refer to taxes paid to the self-administered county or its agent as a result of any error, omission, or inaccurate advice by or on behalf of the self-administered county, including in connection with a prior examination of its books and records by the self-administered county or its agent.
- (h) Notwithstanding subsection (g), the applicable interest rate to be assessed on any tax delinquency or paid on any refund of erroneously paid taxes with respect to all county sales, use, rental, and lodgings tax levies collected by the Department of Revenue shall be determined in accordance with Section 40-1-44.

Section 11-3-18.

A county commission may employ a chief administrative officer, who shall carry out the administrative duties of the county and shall perform all of the following duties:

- (1) Keep and record minutes of all meetings of the county commission.
- (2) Have prepared and presented to the commission chair for proper execution all appropriate documents, such as resolutions, orders, contracts, or directives, as are necessary to carry out the actions of the county commission.

- (3) Maintain at all times a detailed record of the financial status of the county which shall be kept up to date at all times and shall reflect the true status of all outstanding obligations of the county and the estimated revenue for the current fiscal year.
- (4) Perform any other duties with reference to accounting, auditing claims, issuing warrants, and supplying the county commission with information as the county commission may deem necessary for the administration of the financial affairs of the county.
- (5) Serve as signatory for the county on all appropriate documents as authorized or directed by policy adopted by resolution of the county commission.
- (6) Perform any other duties as may be assigned from time to time and under procedures established by the county commission.

Section 11-3-20.

- (a) The chair of the county commission shall preside over county commission meetings, provided however, the county commission may elect or authorize the chair to appoint a vice chair to serve in his or her absence. The chair shall only vote on a matter in the event that the votes cast by the other members of the commission are evenly divided on the issue except, when the chair serves on the county commission as a district commissioner, he or she may vote once on all matters that come before the county commission.
- (b) In addition to presiding over all meetings as set out in subsection (a), the chair of a county commission, or in his or her absence or at his or her request, the vice chair, shall have the following duties:
 - (1) To ensure that an accurate record of all meetings is made and kept as required by Section 11-3-18.
 - (2) Except where the chief administrative officer has been directed to serve pursuant to subdivision (5) of Section 11-3-18, to serve as signatory for the county commission on all appropriate documents, such as resolutions, orders, contracts, or directives, as are necessary to carry out the actions of the county commission.
 - (3) To oversee and supervise the upkeep of the financial records of the county.
 - (4) Except as provided in Section 11-8-9, to issue and sign all warrants.
 - (5) To perform other duties as required by law or determined appropriate by the county commission pursuant to resolution duly adopted by a majority of the members of the county commission.

Section 11-3-21.

As soon as practical after closing the fiscal year, but no later than December 31 of each year, the county commission shall have published in a newspaper of general circulation in the county a statement of the county's financial status for the 12-month period ending on September 30 of that year, which statement shall include at a minimum all of the following:

- (1) An itemized report of the county's receipts by source and disbursements by functions or purposes or both.
- (2) The outstanding indebtedness of the county of any kind or character.
- (3) The schedule by years for retiring indebtedness, separating funded indebtedness from unfunded indebtedness.
- (4) The resources available to pay unfunded indebtedness.

Chapter 8 – Financial Affairs Generally

Section 11-8-3.

- (a) It shall be the duty of the county commission, at some meeting in September of each calendar year, but not later than October 1, to prepare and adopt a budget for the fiscal year beginning on October 1 of the current calendar year which shall include all of the following:
 - (1) An estimate of the anticipated revenue of the county for all public funds under its supervision and control including all unexpended balances as provided in Section 11-8-6.
 - (2) An estimate of expenditures for county operations.
 - (3) Appropriations for the respective amounts that are to be used for each of such purposes.
- (b) The appropriations made in the budget shall not exceed the estimated total revenue of the county available for appropriations.
- (c) The budget adopted, at a minimum, shall include any revenue required to be included in the budget under the provisions of Alabama law and reasonable expenditures for the operation of the offices of the judge of probate, tax officials, sheriff, county treasurer, the county jail, the county courthouse, and other offices as required by law.
- (d) In order that the budget adopted is based upon an estimate of revenue and operating expenditures as nearly correct as possible, at least 60 days before the meeting of the county commission at which the county budget is adopted:
 - (1) Any public official who receives public funds, including any official entitled to ex officio fees, or who issues any kind of order payable out of the county treasury without approval of such county commission shall furnish to the county commission in writing an estimate of the revenue and of the anticipated expenditures the official will be called upon to make during the next fiscal year.
 - (2) The judge of probate, tax officials, sheriff, county treasurer, and any other county official or employee named by the county commission shall prepare and submit to the county commission an itemized estimate of the amount the official or employee believes to be necessary for personnel, office supplies, and other expenditures during the following fiscal year. Any official entitled to ex officio fees shall include in his or her estimate the estimated amount of any ex officio fees the official will receive during the following fiscal year.
- (e) Based upon the estimated revenue and expenditures set out in subsection (d), together with any other financial information available to the county commission regarding the anticipated revenue and expenditures for the next fiscal year, the county commission shall approve a budget which includes the expenditures it deems proper for the next fiscal year.
- (f) Following the adoption of the budget, no obligation incurred by any county official or office over and above the amount or amounts approved and appropriated by the county commission shall be an obligation of the county unless the obligation is approved by an affirmative vote of a majority of the members of the county commission.
- (g) The budget may be amended during the fiscal year as determined necessary by affirmative vote of a majority of the members of the county commission. No amendment may authorize an expenditure which exceeds anticipated revenue of the county except as otherwise specifically authorized by general law.

Chapter 12 – Claims and Demands Against County

Section 11-12-5.

No claim against the county shall be passed upon or allowed by the county commission unless it is itemized by the claimant or some person in his behalf having personal knowledge of the facts and all claims passed upon and allowed according to this section must be entered in the order in which they are allowed in a book kept for that purpose and filed for future reference within two weeks after the meeting at which such allowances were made, and the claim must show whether or not any part thereof has been paid.

This section shall not apply to bonds and interest or interest coupons thereon that have been lawfully issued by the county.

Section 11-12-8.

All claims against counties must be presented for allowance within 12 months after the time they accrue or become payable or the same are barred, unless it be a claim due to a minor or to a lunatic, who may present such claim within 12 months after the removal of such disability.

Chapter 14 – Acquisition, Erection, Maintenance of Buildings, Property, Roads

Section 11-14-4.

The county buildings are to be erected and kept in order and repair at the expense of the county under the direction of the county commission, which is authorized to make all necessary contracts for that purpose.

Section 11-14-9.

The county commission has charge of the courthouse and the sheriff, at the direction of the county commission, must prevent trespasses, and keep out intruders.

Section 11-14-10.

The county commission shall erect courthouses, jails and hospitals and other necessary county buildings, and such county commission shall have authority to levy a special tax for that purpose. Each county within the state shall be required to maintain a jail within their county.

In counties in which a circuit court has been or is hereafter authorized to be held in more than one place, the county commission may build courthouses in each place of holding court, and, in all counties wherein a circuit court is authorized to be held or may hereafter be authorized to be held in more than one place for six months or more during any year, the county commission shall erect a courthouse at each of such places where such court is held, such courthouses to be adequate and commodious for the business of such court and county at such place. In said counties wherein a circuit court is authorized to be held or may hereafter be authorized to be held in more than one place for six months or more during any year, the county commission may erect and/or maintain a jail upon any property owned by the county located within the county. The legislature, by local act passed subsequent to February 9, 1982, may provide for the location of such jail. This section shall not affect in anywise any local law heretofore enacted that is not in conflict herewith.

Section 11-14-11.

The county commission may levy and collect such special taxes as it may deem necessary, not to exceed one fourth of one percent per annum, for the purpose of paying any debt or liability against any county incurred for the erection, construction or maintenance of the necessary bridges or public buildings prior to March 23, 1915, or incurred for the erection of public roads since November 28, 1901, or that may be created for the erection, repairing, furnishing or maintenance of public buildings, bridges or roads after March 23, 1915.

The proceeds of special taxes authorized by section 215 of the Constitution, as amended, and levied for public building, road or bridge purposes in excess of amounts payable on bonds, warrants or other securities issued by the county may be spent for general county purposes in such manner as the county commission may determine.

Section 11-14-14.

It is the duty of the county commission, if there is not a sufficient jail in its county, to levy a county tax for the erection thereof and cause proposals to be issued for building or repairing the same within 12 months thereafter.

Section 11-14-15.

If any county commission fails to levy a tax to erect or repair a county jail when necessary, the persons composing such county commission are severally guilty of a misdemeanor and must, on conviction, be fined not less than \$50.00, but any member thereof may exonerate himself from such fine by proving that he was in favor of levying a tax sufficient for the erection or repair of the county jail, but was overruled by his colleagues.

Section 11-14-16.

Whenever it shall be deemed necessary by the county commission of any county in this state to pay any debt or liability now existing against any county incurred for the erection, construction or maintenance of the necessary public buildings or bridges or that may hereafter be created for the erection of necessary public buildings, bridges or roads, such court shall have the power and authority to levy and collect a special tax upon the taxable property of such county, not to exceed in one year one fourth of one percent for such purposes; and such tax, when collected, shall be applied exclusively for the purposes for which the same was so levied and collected.

Section 11-14-17.

In all cases in which the county commission is directed or empowered to levy a special tax for county purposes, such levy shall be made by the county commission itself upon the assessment last made for state taxes.

Chapter 29 – County Government Capital Improvement Fund

Section 11-29-1

This chapter may be cited as the “County Government Capital Improvement Act.”

Section 11-29-2

It is the desire of the state to assist in the restoration and improvement of county government buildings, bridges, roads, streets and other facilities, and to promote the health, safety and public welfare of the citizens of the state. The

making available in the manner provided in this chapter of appropriated moneys to assist the financing of much needed capital improvement projects will assist county government services and promote the welfare and prosperity of the people of the state.

Section 11-29-3

As used in this chapter, the following words and phrases shall have the following respective meanings:

- (1) FISCAL YEAR. The fiscal year of the state as may from time to time be provided by law.
- (2) FUND. The “county government capital improvement fund”.
- (3) FUND CAPITAL. All assets of the “fund”.
- (4) STATE. The State of Alabama.
- (5) TRUST FUND. “The Alabama trust fund” created by Amendment Number 450 of the Constitution of Alabama of 1901.
- (6) TRUST INCOME. The net income received by the state, subsequent to the transfer of the initial trust capital by the state treasurer to the board of trustees of the trust fund, from the investment and reinvestment of all assets of the trust fund, determined in accordance with the provisions of Amendment Number 450 of the Constitution of Alabama of 1901. “Trust income” does not include income which becomes part of the trust capital of the trust fund.

Section 11-29-4

For the continuing benefit of the state of Alabama and the citizens thereof, there is hereby created the “county government capital improvement fund” which shall be funded and administered in accordance with the provisions of this chapter.

Section 11-29-5

Beginning October 1, 1985, in addition to all other appropriations heretofore or hereafter made there is hereby annually appropriated from the general fund of the state to the county government capital improvement fund an amount equal to 10 percent of the trust income at such time as the trust income received by the state in the preceding fiscal year equals or exceeds \$60,000,000. Provided however, no funds shall be appropriated to the county government capital improvement fund in any fiscal year for which in the previous fiscal year trust income received by the state was less than \$60,000,000.

Section 11-29-6

The fund capital shall be distributed to the several counties of the state and shall be paid on April 15 of the fiscal year for which each annual appropriation is made as follows:

Part of the funds to be paid to counties that is equal to 45.45 percent of the total of such portion shall be allocated equally among the 67 counties of the state; and the entire residue of the portion to be paid to counties, being an amount equal to 54.55 percent of such portion, shall be allocated among the 67 counties of the state on the basis of the ratio of the population of each county to the total population of the state according to the then next preceding federal decennial census or, prior to the effective date of the 1990 decennial census, any special federal census held

in any county subsequent to the effective date of the 1980 federal decennial census and prior to the adoption hereof. Such funds shall only be used by counties for the following purposes:

- a. Public buildings; counties may expend such funds for the construction, furnishing, equipping and renovation of public buildings including, without limitation, jails, courthouses and courthouse annexes, juvenile facilities, and paying rentals to public corporations for the use of public buildings. Such funds may also be expended for the purpose of purchasing land for public buildings.
- b. Solid waste; counties may expend such funds for the purchase of land for sanitary landfills, the purchase of solid waste handling and disposal equipment including collection vehicles and landfill compaction equipment, and other solid waste handling and disposal equipment and/or facilities.
- c. Public utilities; counties may expend such funds for public water and waste water treatment facilities and drainage facilities. Such expenditures may include the purchase of land and rights-of-way, and the purchase of equipment and supplies necessary for the installation and maintenance of such public facilities.
- d. Roads and bridges; up to 50 percent of the funds received by counties may be expended for the construction, maintenance, reconstruction, restoration or resurfacing of county roads and bridges.
- e. Bonds and warrants; counties may expend such funds for the payment of any valid obligation of a county that is evidenced by bonds, notes, warrants or other instruments now or hereafter authorized by law to be issued for any of the purposes enumerated in clauses a, b, c and d of this paragraph.
- f. Public health; counties may expend funds for the operation and maintenance of the county health department.
- g. Pensions and security; counties may expend funds for the operation and maintenance of the county human resources department.

Section 11-29-7

The state comptroller shall make all allocations of funds and shall make the distribution and payments thereof pursuant to such allocations provided for in this chapter.

Chapter 91 – Group Life, Health, Accident Insurance for Counties

Section 11-91-1

- (a) The council, commission or similar governing body of each municipal corporation, the board of directors of each incorporated municipal board, the county commission of each county, the board of education of each city and the board of education of each county, now existing or established after August 16, 1947, shall have power and authority to contract for and obtain and maintain policies of group life, health, accident and hospitalization insurance or any one or more of them and shall have power and authority to contract for and obtain and maintain individual annuity contracts, retirement income policies or group annuity contracts to provide a retirement plan for the benefit of such of the officers and employees of such municipality, incorporated municipal board, county or board as may be determined by such governing body and as shall or may elect to accept the same and who have authorized in writing such governing body to make deductions from their compensation to pay premiums on any such policy or policies if such premiums are payable in whole or in part by such officer or employee.
- (b) The term “insurance” as used in this chapter includes the term “annuity,” and the term “policy” includes the term “contract.”

Section 11-91-2

- (a) All such governing bodies shall have authority to contract for and purchase any or all such policies of insurance from any insurer or insurers admitted to transact the business of such insurance in the State of Alabama, and the governing bodies of all state colleges and universities shall have, in addition to powers previously granted, the authority to contract for and purchase any or all such policies of insurance from any nonprofit corporation organized and operated without profit to any private shareholder or individual exclusively for the purpose of aiding or strengthening educational institutions by issuing insurance and annuity contracts only to or for the benefit of such institutions and individuals engaged in the services of such institutions.
- (b) The amounts of insurance under any such policy must be based upon some plan precluding individual selection either by such officers and employees or by the governing body.
- (c) The coverage of any such policy may be limited to specified classes of officers and employees determined by conditions pertaining to employment, but there shall be no discrimination within any such specified class.

Section 11-91-3

It is hereby declared to be the intent of the Legislature that any such governing bodies shall have the power and authority to determine in their sole discretion the class or classes of officers or employees who are to be insured under any such policy or policies, the amount, nature and kind of insurance upon each such officer and employee and class thereof and whether the premium therefore shall be paid in whole or in part by such governing bodies and, if in part, the amount thereof that will be so paid.

Section 11-91-4

Such governing bodies shall have authority to pay all or such part of the premium for such insurance as such governing bodies shall determine out of any available funds and to deduct that part of the premium, if any, which is to be paid by such officer or employee from the salary or wage of such officer or employee as may be authorized by him and to pay such deductions together with the remainder due of such premium to the insurer issuing such policy in full payment of the premium.

Section 11-91-5

In the event there is a return of premium by any insurance company under any such insurance contract, such return shall be made to the governing body paying such premium.

Section 11-91-6

Any such governing bodies may appropriate sufficient funds to carry out the provisions of this chapter.

Section 11-91-7

All contracts and policies of group life, health, accident and hospitalization insurance or any one or more of them which have been issued prior to August 16, 1947, to any municipal corporation, county, city or county board of education or any state agency or institution of education, learning, training or correction or for the delinquent, insane, sick, deaf, dumb, blind, needy, juvenile or aged for the benefit of its officers and employees or any portion of them are hereby ratified, confirmed, approved and validated.

All acts done and all premiums paid by any such municipal corporation, county, board, agency or institution in accordance with the terms of any such contract or policy are hereby ratified, confirmed, approved and validated.

Section 11-91-8

The governing body of any county, municipality, or a public agency which is an employer participating in the Employees' Retirement System pursuant to Section 36-27-6, or in the local government health insurance program of the State Employees' Insurance Board may, upon a majority vote of its members, elect to allow the retired employees of such a county, municipality, or public agency to participate in any health, hospitalization, surgical, or medical insurance program made available to regular employees, or any related health program for retirees selected by the governing body including the local government health program offered by the State Employees' Insurance Board. Such a county, municipality, or public agency may pay all, or any part, or none of the cost thereof or the premiums thereon for current or future retirees from any funds in the county, municipal, or public agency treasury not otherwise appropriated.

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Title 12

Courts

Chapter 13 – Probate Courts

Section 12-13-20

- (a) No probate judge who is on a salary and who serves as chairman of the county commission shall receive total compensation less than \$35,000.00 per year beginning on October 1, 1985 and less than \$40,000.00 per year beginning on October 1, 1986, for serving as chairman and probate judge. This section in no way affects probate judges earning more than \$35,000.00 per year on October 1, 1985 and more than \$40,000.00 per year on October 1, 1986.
- (b) No probate judge who is on a salary and who does not serve as chairman of the county commission shall receive total compensation less than \$32,500.00 per year beginning on October 1, 1985 and less than \$37,500.00 per year on October 1, 1986. This section in no way affects probate judges earning more than \$32,500.00 per year on October 1, 1985 and more than \$37,500.00 per year on October 1, 1986.
- (c) On October 1, 1990, and on October 1, 1991, and on October 1, 1992, each probate judge in this state who is paid on a salary basis shall receive an additional annual salary increase of \$5,000.00 on each of said three dates, for a total increase of \$15,000.00 over the said three year period, payable on and after October 1, 1992.
- (d) No probate judge who is on a salary and who serves as chairman of the county commission shall receive total compensation more than \$55,000.00 per year beginning on October 1, 1990. This section in no way affects probate judges earning more than \$55,000.00 per year on October 1, 1990.
- (e) No probate judge who is on a salary and who does not serve as chairman of the county commission shall receive total compensation more than \$52,500.00 per year beginning on October 1, 1990. This section in no way affects probate judges earning more than \$52,500.00 per year on October 1, 1990.
- (f) Any necessary funds needed to ensure a probate judge shall receive the total respective compensations herein provided shall be paid out of the respective county's general fund.
- (g) The provisions of this section shall not affect the compensation of probate judges of counties where said judges are compensated on the basis of the fee system.

Chapter 19 – Court Finances

Section 12-19-93

The coroners shall be entitled to receive, for services rendered by them in civil cases, the same fees as were allowed to sheriffs for like services on December 18, 1973.

Section 12-19-94

Fees due to constables and coroners for services in connection with district and circuit court proceedings shall be payable from the county treasury upon a sworn statement certified by the circuit clerk and shall not affect the collection and distribution of uniform fees.

Section 12-19-192

- (a) Coroners shall be entitled to the following fees:
- (1) For going to and returning from the place where he holds an inquest, for each mile traveled \$.06
 - (2) For holding an inquest, when ordered by a judge of a court of record or by the district attorney 7.50
 - (3) For summoning a jury on inquest 1.00
 - (4) For each subpoena25
 - (5) For each warrant of arrest50
 - (6) For each bond or undertaking returned to court50
 - (7) For investigation and certification of the cause of death when no jury is summoned or postmortem examination made by a physician or surgeon as provided in Section 12-19-193, \$.06 for each mile traveled in going and returning, and \$7.50 to be paid from the county treasury.
 - (8) For all services performed when discharging the duty of the sheriff in cases authorized by law, the same fees that were allowed the sheriff for similar services on December 18, 1973.
- (b) In no event shall the coroner be entitled in any one year to fees exceeding in the aggregate \$1,200.00.

Section 12-19-193

- (a) Fees for holding inquest shall be paid out of the county treasury, when the inquest has been held under the order of a judge of a court of record or district attorney, and such fees must be also certified by the coroner to the clerk of the circuit court of the county and must be taxed as costs against any person who is convicted for killing the person on whose body the inquest was held and be collected like other costs in criminal cases and, when collected in cases in which the county has paid the same, shall be paid to the county treasurer for the use of the county and, in other cases, to the coroner.
- (b) No fees shall be paid for an inquest when it is publicly known before the jury is summoned who caused the death of the deceased or when the slayer has been arrested for the homicide; but, in such case, if the immediate cause of the death is uncertain, a physician or surgeon may be summoned to make a postmortem examination, who shall give his opinion in writing as to the cause of the death, which must be returned by the coroner as inquests are returned by him, and such coroner, physician or surgeon shall be entitled to the same fee and mileage, to be paid in the same manner as for attending an inquest.
- (c) Such fees as accrue to coroners for services rendered by them in discharging duties of sheriffs must be paid in the same manner that sheriffs' fees for like services were paid on December 18, 1973.

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Title 16

Education

Chapter 13 – School Finances Generally

Section 16-13-160.

Upon a petition signed by 200 or more qualified electors of the county, who are also freeholders, to the county commission in any county within the State of Alabama, the said commission shall order an election to determine whether or not a special tax of one mill shall be levied for the support of the public schools within said county as hereinafter provided

Section 16-13-161.

There shall be made publication of the election in some newspaper within the county, which publication shall show the rate of such proposed tax, the time it is proposed to be continued and the purpose for which the levy is proposed to be made.

Section 16-13-162.

- (a) The inspectors and officers of the election shall be appointed and such elections shall be held and the result of said elections shall be declared in the same manner and by the same officers as is the result of the regular elections for county officers under the general laws of the state.
- (b) The election provided for in this article may be had at the time of holding any regular election within the county; and, if held at any such time, the inspectors and officers of the general election shall conduct at the same time the election herein provided for; and for such services they shall receive no compensation other than that allowed them for the holding of the general election; but if such an election is had at any other time than that of holding a regular election within the county, then the election officers shall receive the same pay as that for holding a general election.

Section 16-13-163.

All persons who are at the time of such election qualified electors in the county where such election is held under the laws and Constitution of Alabama then in existence shall be qualified electors to participate therein.

Section 16-13-164.

The county commission shall provide a sufficient number of ballots for each voting precinct within said county, and at the top of each ballot shall be printed the rate of such proposed tax, the time it is to be continued and that the purpose is for the support of the public schools, and directly underneath in plain type shall be printed on different lines the words, "For proposed taxation," "Against proposed taxation," and a place must be left directly to the left of each line thereof, and the voters favoring the proposed taxation will make a cross mark directly to the left of the line, "For proposed taxation," and the voter not favoring proposed taxation will make a cross mark directly to the left of the line "Against proposed taxation."

Section 16-13-165.

If three fifths of those voting at said election have voted for the proposed taxation, the county commission shall levy said special tax and cause the tax assessor to assess the same on the taxable property in said county, which shall not exceed \$.10 on each \$100.00 of taxable property in said county; but the rate of such special tax shall not increase the rate of taxation, state and county combined, in any one year to more than \$1.25 on each \$100.00 of taxable property in said county, but all special county taxes for public buildings, roads, bridges and the payment of debts existing at the ratification of the Constitution of 1875 shall not be included in the aforesaid \$1.25 on the \$100.00 of taxable property.

Section 16-13-180.

Upon a petition signed by 200 or more qualified electors of any county to the county commission, said county commission shall order an election to be held at the time specified in said petition to determine whether or not a special tax shall be levied for public school purposes within said county; and, upon request of the county board of education to the county commission, said court shall order an election to be held at the time requested by the said board of education to determine whether or not a special tax shall be levied for public school purposes within any school tax district in the county under the control of such board; and, upon the request of any city board of education to the county commission, said court shall order an election to be held at the time requested by said board of education to determine whether or not a special tax shall be levied for public school purposes within said city.

Section 16-13-181.

Upon the written request of the county board of education or of the board of education of any city having a city board of education for a special election in any school tax district under the control of the respective board, the county commission shall call an election at the time and for the rural or city school tax districts as requested by the respective board of education and shall appoint three managers and one returning officer for each voting place in the school tax district or at such special voting places as may be designated for the special election by the judge of probate of the county who shall locate such voting places, upon the recommendation of the county board of education, and such special voting places shall be set out in the notices of the special election.

Section 16-13-182.

No election in any rural or city school tax district shall be held for the purpose of levying and collecting a special school tax for school purposes unless the county in which said rural or city school tax district is located shall be levying and collecting special county taxes for school purposes of not less than \$.30 on each \$100.00 worth of taxable property in such county.

Section 16-13-183.

The sheriff must give notice at least 30 days before any election to be held under this article, by publication in some newspaper in the county, if any is published therein, and if not, by writing posted at the courthouse door and at three other public places in the county of the time of holding, and when any election is to be held for a special tax for school purposes in any rural or city school tax district, written notices shall be posted in three public places within said district 30 days prior to said election. Said publications, both for special county and school tax district elections for school purposes, shall show the rate of such proposed tax, the time it is proposed to be continued, the purpose for which the levy is proposed to be made and a description of the boundaries of the proposed school tax district.

Section 16-13-184.

- (a) The inspectors and officers of the special county election shall be appointed and said election shall be held and the results of such election shall be declared in the same manner and by the same officers as the results of the regular election for county officers, under the general election laws of the state; provided, that the election may be held at the time for holding any regular election in the county; and, if held at such time, the inspectors and officers of the general election shall conduct at the same time the election herein provided for and for such services they shall receive no compensation other than that allowed them for the holding of the general election. If the election is held at some other time than that of holding the regular election in the county, then the election officers shall receive the same pay as that for holding the general election.
- (b) The managers and returning officers, provided for above, shall conduct and make return of such election in the rural or city school tax district; and, in the event such election officers fail to appear at the polling place to which they are appointed, the officer or officers who do appear shall appoint someone to take their places. All election officers shall be residents of the special school tax district and qualified electors of the beat or precinct in which they reside. The sheriff shall notify all officers of their appointment by the county commission. The managers of such election shall open and close the polls pursuant to Section 17-7-5.1 on the date of election and, immediately upon closing the polls, shall ascertain the results of the election at their respective voting places, and make returns of the same to the county commission and deliver the ballot box containing the returns, with the poll lists, tally sheets and other necessary papers, to the returning officers of such voting places, who shall deliver the same to the county commission on or before noon of the second day of the said election. The county commission shall, within four days after said election, canvass the returns so made and under oath make a written report declaring the result of said election in said school tax district, showing the number of votes cast, both for and against the proposed taxation. A copy of such report shall be printed in some newspaper published in the county, and the original shall be filed in the office of the probate judge. Except as otherwise provided herein, said election shall be held under the general laws of the state.

Section 16-13-185.

The officers, including the sheriff, shall perform the same duties and receive the same pay as provided for under the general election laws aforesaid, and all costs and fees of said election shall be paid out of the county treasury.

Section 16-13-186.

When any election is to be held in any county or in any rural or city school tax district, under the provisions of this article, the county commission shall provide the necessary number of ballots, poll lists, tally sheets, ballot boxes, booths, instructions for holding the election and all other necessary and proper stationery for holding said election; and the sheriff shall see that the same are delivered to the managers before the day of the election.

Section 16-13-187.

The ballots used in said election shall have printed at the top the purpose of such election and, if a tax is proposed to be levied, there shall be printed at the top the rate of such proposed tax, the time such tax is proposed to be continued and that it is to be used for public school purposes. Where the election is only for a proposed tax levy, directly underneath such statement at the top of the ballot in plain type shall be printed on different lines the words, "For proposed taxation," "Against proposed taxation"; and, where the election is for consolidation of school tax districts or a school tax district and adjacent territory and proposed taxation, there shall be so printed the words, "For proposed consolidation and taxation," "Against proposed consolidation and taxation." A blank must be left directly to the left of each line so that the voter may indicate his choice by a cross mark directly to the left and in front of the line expressing his choice.

Section 16-13-188.

The county commission shall declare the result of the election; and, where the electors have voted so as to require the levy of a tax, the county commission shall levy said special tax and cause the tax assessor to assess the same on the taxable property in said county or in said rural or city school tax district, as the case may be, which shall not exceed \$.30 on each \$100.00 worth of taxable property in said county or in said rural or city school tax district, as the case may be. Any special tax levied hereunder shall not be for a shorter term than two years. In all elections hereafter held, if the specific purposes for which said tax, when levied, shall be used is printed on the ballots to be used in said election, it shall be unlawful for the county board of education to apply it to any other purpose.

Section 16-13-189.

Where the election is for the entire county, all persons who are at the time of such election qualified electors of the county, or where the election is held for a school tax district all persons who at the time of such district election are qualified electors of the district and reside in such district shall be qualified electors to participate therein. Any person who participates in any such election or any person who votes in any such election without being so qualified shall upon conviction be fined not over \$500.00.

Section 16-13-190.

Each election heretofore held in any school district or in any municipality or in any county at large, in this state on the question of the levy of a special tax for any school or educational purpose, or for school or educational purposes generally, under the Constitution of Alabama or any amendment thereto, or upon the question of the consolidation of two or more school districts and the levy of such a tax in the consolidated school district resulting from such consolidation, at which election a majority of the ballots cast were in favor of the levy of the tax, or in favor of the proposed consolidation and the levy of the tax in the consolidated district, as the case may be, and which election was irregular because of failure prior to the holding of the election to give notice thereof in a newspaper or by posting in the manner or for the time required by the statute under which the election was held, or because the period of time for which the tax was voted at the election exceeded the maximum period of time for which the tax was then permitted by the appropriate statute, or because of any other irregularity in any proceedings pertaining to the election, shall be and each such election is hereby ratified, and each such election shall be given effect in all respects as if all provisions of law relating to such election had been duly and legally complied with. The tax voted on at each such election shall be levied and collected for the remaining period of the time specified for the levy thereof in the election proceedings, and each such consolidation of school districts and levy of the tax provided for in such consolidation proceedings shall be effective in accordance with the authorization purported to have been given at such election.

The provisions of this section shall not apply to any election which prior to the enactment of this section shall have been heretofore held or declared irregular by the governing body of the county in which the election was held or shall have been held invalid by the Supreme Court of Alabama or by final judgment of the circuit court in the county in which the election was held and from which judgment an appeal was not taken to the Supreme Court of Alabama within the time provided by law for the taking of such appeal, or to any election the validity of which is in issue in any pending action commenced prior to January 1, 2006.

Section 16-13-191.

In order to make it possible to work out a system of local tax units adapted to the needs of the whole county, the county board of education of its own initiative shall fix the boundaries of any school tax district within its jurisdiction in which it is proposed to levy a local school tax. In making application for a special election in any such district, the county board of education shall submit a map made by the county surveyor, or other competent person, showing the boundaries of the school tax district for which a special tax levy is proposed, indicating the section or sections and ranges, together with the correct description of the boundaries of the said district for which a special tax

levy is proposed. These maps shall also show the location of public utilities, such as power plants, railroad and telegraph lines, if any, in such districts, and the railroad mileage for each and every corporation having property therein. The county superintendent shall include a full and correct description of such boundaries in the minutes of the county board of education and shall also furnish a full and correct description of such boundaries, including a map, to the probate judge, who shall record the same in a book to be kept by him for that purpose also to the Department of Education and to the Department of Revenue or other board exercising corresponding powers, including as many copies of such map as there are public utilities.

Section 16-13-192.

The county board of education shall have a proper map of such school tax district made and recorded as herein provided.

The levy of the district school tax shall operate to fix the boundaries of such school tax district for the time of such special levy, except as hereinafter provided.

Section 16-13-193.

Any city having a city board of education shall constitute an independent school tax district for the purpose of levying the tax authorized under this article, but it shall not be necessary for the city board of education when making application or request for a special election under the provisions of this article to submit the map or the description of boundaries.

Section 16-13-194.

When it shall seem desirable to enlarge any school tax district by consolidating with it any adjacent territory or district, which may or may not be levying any special school tax, the county board of education may petition the county commission to call an election in all of the districts concerned, including the school tax district proposed to be enlarged to determine whether a special tax for a uniform rate and time shall be voted in each and every one of the districts. The proposed rate and time shall not be less than the maximum rate in any school tax district or the maximum time in any such district.

Section 16-13-195.

When it shall seem desirable to consolidate with a city school tax district having a city board of education, either a county school tax district or territory adjacent to such city school tax district which does not lie within the corporate limits of the city, so as to vest the control of educational matters of such proposed consolidated school tax district in said city board of education, the county board of education and city board of education shall agree upon the terms of consolidation and concurrently request the county commission to call an election in all the territory proposed to be consolidated to determine whether such school tax district or territory adjacent to said city school tax district should be consolidated with the city school tax district and the educational affairs of all the territory proposed to be consolidated placed under the control of the city board of education of such city, and whether or not a special tax for a uniform rate and time shall be voted for such proposed school tax district. In the event of such consolidation, the rate and time of the three-mill district tax, if levied, shall be for such time as prescribed in the agreement between the boards; provided, that the rate and time shall not be less than the maximum rate and the maximum time of any such district or territory included in said consolidation.

Section 16-13-196.

Thereupon the county commission shall call an election in like manner as already prescribed for calling an election in a school tax district in the special districts or district and adjacent territory proposed to be consolidated, and if a majority of the qualified electors voting in the combined territories of the districts or district and adjacent territory proposed to be consolidated shall vote favorably, the districts or district and adjacent territory shall be consolidated into a new special school tax district, and the tax as voted shall be levied and collected in the new district as a unit, but the creation of a new district shall not operate to relieve the county board of education of liability for the just obligations made prior to such consolidation. In the event a majority of the qualified electors voting in the combined territories of the districts or district and adjacent territory proposed to be consolidated shall vote against the proposed consolidation, said consolidation shall not be made and each district shall remain as before with the same taxing privileges.

Section 16-13-197.

Whenever such a levy as is provided for in this article is made, it shall be the duty of the tax collector within and for that county to collect such tax in the same manner and under the same requirements and laws as the taxes of the state are collected, and he shall keep said amount separate and apart from all other funds and keep a clear and distinct account thereof, showing what amount is paid, and turn the same over to the county custodian of school funds whose duty it shall be to receipt therefore, and pay the same on monthly payrolls and other prescribed forms, with the authority and approval of the county board of education.

Section 16-13-198.

The funds arising from levying a special tax for school purposes in any school tax district under the jurisdiction of the county board of education shall be used for the exclusive benefit of the public schools of such districts; provided, that in any school tax district where such tax is being levied there is no public school, the funds arising from levying said tax may be used for the purpose of transporting school children residing in such district to a school located in another district. In the case of cities and towns under independent boards, said county tax collector shall collect said taxes and pay over the same to the treasurer of said city or town to be used for the exclusive benefit of the schools thereof in accordance with the law.

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Title 22

Health, Mental Health, and Environmental Control

Chapter 3 – Local Health Authorities

Section 22-3-10.

The county commission of each county shall in its discretion be authorized to levy annually a special county tax, being a part of the general county tax of one half of one per centum per annum, in an amount sufficient to establish and maintain a full-time county health officer and county health department and for the prosecution of public health work within the county. The proceeds of said tax, when levied and collected, shall be placed in a separate fund and shall be used for no other purpose except that for which said tax is levied and collected. Such tax, and the proceeds thereof, may be anticipated by temporary loan certificates, and, when anticipated, all of such proceeds shall be deposited in the special county health fund or shall be deposited to the credit of the State Health Officer for the exclusive use of the maintenance of a full-time county health officer and full-time county health department within the county. This section is not exclusive, but is cumulative and remedial, and it shall not be construed to interfere with counties now operating or desiring to operate under mandatory laws relating to full-time health service.

Chapter 21 – Hospitals and Other Health Care Authorities

Section 22-21-102.

When a hospital corporation has been designated as the agency of the county to acquire, construct, equip, operate and maintain public hospital facilities in the county, and without restriction to a particular area or portion of the county in which such corporation is to act as such agency, then the proceeds thereafter collected from any such special tax that is a countywide tax for public hospital purposes shall be paid over to the hospital corporation. When a hospital corporation has been designated as the agency of the county to acquire, construct, equip, operate and maintain public hospital facilities in a particular area or portion of the county, then the proceeds thereafter collected from any special tax for public hospital purposes that may have been voted in the area of the county for which such corporation shall have been so designated as the county's agency shall be paid over to said hospital corporation. Any proceeds from any special tax for public hospital purposes that shall be paid over to a hospital corporation pursuant to the provisions of this section shall be used by that hospital corporation for any one or more of the purposes for which the said tax shall have been voted; provided, that payment of the proceeds of said tax to the said hospital corporation shall be made only to such extent as will not result in the impairment of the obligation of any contract theretofore made with respect to said tax. When any designation by a county of an agency for public hospital purposes shall have been made pursuant to the provisions of this division, the tax collector shall thereafter collect the special tax that is payable to the said agency under the provisions of this division in the same manner and under the same requirements and laws as taxes of the state are collected, shall keep the proceeds of the said tax separate and apart from all other funds, shall keep a clear and distinct account thereof and shall turn the same over to the said hospital corporation, which shall have the duty to receipt therefore.

Section 22-21-223.

In any county in which a special county tax is levied and collected, pursuant to the provisions of any amendment to the constitution heretofore adopted, for the purpose of acquiring, constructing, equipping, operating and maintaining public hospitals, public clinics, public health centers and related public health facilities of any kind, or for any one or more of the purposes included within the meaning of the term "public hospital purposes," the county commission of the county is hereby authorized to appropriate so much of the proceeds of such tax as may be necessary for the purpose of carrying out the provisions of this article; provided, that if any portion of the proceeds of such tax has been heretofore pledged to the payment of any bonds, warrants, notes or other obligations or evidences of indebtedness, such portion of the proceeds of the tax as shall have been so pledged shall not be used for any purpose except in payment of such bonds, warrants, notes or other obligations or evidences of indebtedness. The county commission of the county is also authorized to appropriate, out of any funds in the county treasury not otherwise appropriated, such amounts as may be necessary in carrying out the provisions of this article.

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Title 31

Military Affairs and Civil Defense

Chapter 9 – Emergency Management

Section 31-9-2

- (a) Because of the existing and increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, earthquake or other natural causes, and in order to insure that preparations of this state will be adequate to deal with such disasters or emergencies, and generally to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:
- (1) To create a State Emergency Management Agency, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state.
 - (2) To confer upon the Governor and upon the governing bodies of the political subdivisions of the state the emergency powers provided in this chapter.
 - (3) To provide for the rendering of mutual aid among the political subdivisions of the state, and with other states, and with the federal government with respect to the carrying out of emergency management functions.
 - (4) To authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out the provisions of this chapter.
- (b) It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources and facilities for dealing with such disaster or emergency.
- (c) It is further declared to be the purpose of this chapter and policy of the State of Alabama to assist and encourage emergency management and emergency preparedness activities on the part of the political subdivisions of the state by authorizing the State of Alabama to make grants, as funds are appropriated for such specific purpose, to any political subdivision of the state in amounts not to exceed the amounts expended, or to be expended, for personnel and administrative costs by such political subdivisions for emergency management and emergency preparedness.

Section 31-9-10

- (a) Each political subdivision of this state is hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program and may confer or authorize the conferring, upon members of the auxiliary police, the powers of peace officers, subject to such restrictions as shall be imposed. The governing body of the political subdivision is authorized to appoint a director, who shall have direct responsibility for the organization, administration, and operation of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall

conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this article.

- (b) The governing body of each political subdivision shall have the power and authority:
- (1) To appropriate and expend funds, make contracts, obtain, and distribute equipment, materials, and supplies for emergency management purposes; to provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster; and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.
 - (2) To appoint, employ, remove, or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel, and other emergency management workers; provided, that compensated employees shall be subject to any existing civil service or Merit System laws.
 - (3) To establish a primary and one or more secondary control centers to serve as command posts during an emergency.
 - (4) To assign and make available for duty the employees, property, or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related service, police, transportation, construction, and similar items or services for emergency management purposes, within or outside of the physical limits of the subdivision.
 - (5) In the event that the governing body of the political subdivision determines that any of the conditions described in Section 31-9-2(a) has occurred or is imminently likely to occur, the governing body shall have the power:
 - (a) To waive procedure and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution with or without compensation of supplies, materials, and facilities, and the appropriation and expenditure of public funds.
 - (b) To impose a public safety curfew for its inhabitants. If a public safety curfew is imposed as authorized herein, it shall be enforced by the appropriate law enforcement agency within the political subdivision. A public safety curfew imposed under this subsection shall not apply to employees of utilities and cable telecommunications companies and their contractors engaged in activities necessary to maintain or restore utility and cable communications services or to official emergency management personnel engaged in emergency management activities.
 - (6) To close, notwithstanding Section 11-1-8, any and all public buildings owned or leased by and under the control of the political subdivision where emergency conditions warrant, whether or not a local state of emergency has been declared by the governing body of the political subdivision. In the event that any documents required to be filed by a time certain deadline cannot be filed in a timely manner due to the closing of an office under this subdivision, the deadline for filing shall be extended to the date that the office is reopened as provided in Section 1-1-4.
- (c) No local governing body of a political subdivision shall have the authority to provide for and compel evacuation of the area except by the direction and under the supervision of the Governor or the State Emergency Management Agency, or both. Any action taken by the governing body of the political subdivision shall remain in full force and effect unless revoked by proclamation of the Governor, issued as provided in Section 31-9-8.

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Title 36

Public Officers and Employees

General Provisions

Section 36-6-10

It shall be lawful for any person who is an officeholder in or of the State of Alabama or any county or municipality thereof or holding any civil office of profit under this state or any county or municipality thereof whose compensation, salary or fees is fixed by law for his services and which compensation, salary or fees cannot be or shall not be increased or diminished during the term for which he shall have been elected or appointed under the provisions of Sections 118 or 281 of the Constitution of Alabama or Amendment No. 328 thereof to voluntarily diminish the compensation, salary or fees fixed by law to which he is entitled to such extent as he may desire.

Any person desiring voluntarily to diminish the salary, fees or compensation to which he is entitled and which is fixed by law shall sign and acknowledge an instrument in writing designating the office or position held by him and stating or declaring the amount to which he desires to diminish his salary, fees or compensation. This instrument must be acknowledged by him substantially in the form provided by law for acknowledgment of conveyances, and the acknowledgment may be taken by any officer authorized to take acknowledgment and proof of conveyances in this state. This instrument signed and acknowledged shall, where the person executing and acknowledging the instrument is an officeholder of or in the service of the state, be filed with and recorded by the Department of

Finance. This instrument signed and acknowledged shall, where the person executing and acknowledging the instrument is an officeholder of or in the service of a county in the state, be filed with and recorded by the probate judge of the county which he serves. This instrument signed and acknowledged shall, where the person executing and acknowledging the instrument is an officeholder of or in the service of a municipality of the state, be filed with and recorded by the custodian of the records of the municipality.

The Department of Finance, the probate judge of the county and the custodian of the records of a municipality shall respectively provide and preserve a book in their respective offices in which to record such instruments and shall record such instruments in said book, and said book shall be a public record. A certified copy from such book shall have the same force and effect as a certified copy of a conveyance. Neither the Department of Finance nor the probate judge nor the custodian of the records of a municipality shall have the right to charge or collect any compensation for their respective services or for doing what is required to be done by them under the provisions of this section.

From and after the filing of any such instrument with the Department of Finance or with the probate judge or the custodian of the records of a municipality, the compensation or salary or fees of the person executing, acknowledging and signing the instrument shall be reduced in the amount designated in the instrument filed, and, thereafter, warrants or checks or drafts or money given in payment of the compensation, salary or fees to which the person filing the instrument is entitled shall be in the amount of the reduced compensation, salary or fees of such person in accordance with the reduction made by the instrument filed, and the person filing the said instrument shall not be entitled to more compensation, salary or fees than the reduced amount thereof as shown by the terms of the instrument filed for record.

Chapter 7 – Reimbursement of Traveling and Other Expenses

Section 36-7-1

It shall be unlawful for an officer or employee of a county, town, or city in Alabama to be reimbursed from the treasury of a county or municipality for expenses incurred by him or her while traveling or remaining beyond the limits of counties and municipalities in the performance of his or her duties incidental to the management or control of the affairs of the county or municipality unless the officer or employee presents and has approved as provided for in this article an itemized statement of all expenses incurred. Nothing in this article shall be interpreted as applying to the use of credit cards issued in the name of the municipality by municipal officers and employees beyond the limits of the municipality for which they work. Nothing in this article shall be interpreted as applying to the use of credit cards issued in the name of the county by county officers and employees beyond the limits of the county for which they work.

Section 36-7-2

When a municipality is governed by a commission form of government, such itemized statement shall be presented to the municipal comptroller or corresponding officer immediately upon the return of said officer or employee of such municipality and must be approved or disallowed at a regular meeting of the commission of such municipality held within a period of 30 days after presentment to municipal comptroller or corresponding officer. When a municipality is governed by a mayor and council, such itemized statement shall be presented to the treasurer of the municipality in similar manner as hereinabove provided for and shall be approved or disallowed at a regular meeting of the governing body held within a period of 30 days after presentment to the treasurer of the municipality. In the case of counties, such itemized statement shall be presented to the county clerk or corresponding officer in similar manner as hereinabove provided for and shall be approved or disallowed at a regular meeting of the county commission held within a period of 30 days after presentment to the county clerk or corresponding officer of the county.

Section 36-7-3

No sum shall be advanced from the treasury from any municipality or county in this state for the purpose of defraying the expenses of any officer or employee of such municipality or county while traveling or remaining beyond the limits of such municipality or county unless the same shall first be allowed by a resolution adopted by the governing body of such municipality or county, which said resolution shall state the purpose and object of such proposed visit.

Section 36-7-4

When any sum is advanced to an officer or employee of any county or municipality to be used to defray expenses incurred while traveling beyond the borders of the municipality or county, the itemized statement required as provided for in Section 36-7-1 shall be presented immediately upon the return of such officer or employee to the county or municipality, and failure to present and have approved such statement shall render such officer or employee personally liable to the county or municipality for the sum advanced, which sum shall, if such officer or employee is drawing pay for his services from the municipality or county, be deducted from any sum then or in the future owed by the municipality or county to such officer or employee.

Chapter 22 – Sheriffs

Section 36-22-16

- (a) Sheriffs of the several counties in this state shall be compensated for their services by an annual salary payable in equal installments out of the county treasury as the salaries of other county employees are paid. The annual salary of the sheriff shall be \$35,000.00, commencing with the next term of office, unless a higher salary is specifically provided for by law by general or local act hereafter enacted.
- (b) Such salary shall be in lieu of all fees, compensation, allowance, percentages, charges and costs, except as otherwise provided by law. The sheriff and his deputies shall, however, be entitled to collect and retain such mileage and expense allowance as may be payable according to law for returning or transferring prisoners and insane persons to or from points outside the county.

Section 36-22-18

The county commission shall also furnish the sheriff with the necessary quarters, books, stationery, office equipment, supplies, postage and other conveniences and equipment, including automobiles and necessary repairs, maintenance and all expenses incidental thereto, as are reasonably needed for the proper and efficient conduct of the affairs of the sheriff's office.

Section 36-22-19

The county commission of each of the several counties of the state may, in its discretion and upon application of the sheriff of the county, pay the sheriff's membership dues in the Alabama Sheriffs Association each year and also the sheriff's membership dues in the National Sheriffs Association each year.

The cost of any such membership dues, upon approval by the county commission, may be paid out of the general fund of the county commission.

Chapter 25 – Ethics Law

Section 36-25-9

- (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.

Chapter 25A – Open Meetings Act

Section 36-25A-1.

- (a) It is the policy of this state that the deliberative process of governmental bodies shall be open to the public during meetings as defined in Section 36-25A-2(6). Except for executive sessions permitted in Section 36-25A-7(a) or as otherwise expressly provided by other federal or state statutes, all meetings of a governmental body shall be open to the public and no meetings of a governmental body may be held without providing notice pursuant to the requirements of Section 36-25A-3. No executive sessions are required by this chapter to be held under any circumstances. Electronic communications shall not be utilized to circumvent any of the provisions of this chapter.
- (b) This chapter shall be known and may be cited as the “Alabama Open Meetings Act.”

Section 36-25A-2.

As used in and for determining the applicability of this chapter, the following words shall have the following meanings solely for the purposes of this chapter:

- (1) **DELIBERATION.** An exchange of information or ideas among a quorum of members of a governmental body intended to arrive at or influence a decision as to how the members of the governmental body should vote on a specific matter that, at the time of the exchange, the participating members expect to come before the body immediately following the discussion or at a later time.
- (2) **EXECUTIVE SESSION.** That portion of a meeting of a governmental body from which the public is excluded for one or more of the reasons prescribed in Section 36-25A-7(a).
- (3) **GENERAL REPUTATION AND CHARACTER.** Characteristics or actions of a person directly involving good or bad ethical conduct, moral turpitude, or suspected criminal activity, not including job performance.
- (4) **GOVERNMENTAL BODY.** All boards, bodies, and commissions of the executive and legislative departments of the state or its political subdivisions or municipalities which expend or appropriate public funds; all multimember governing bodies of departments, agencies, institutions, and instrumentalities of the executive and legislative departments of the state or its political subdivisions or municipalities, including, without limitation, all corporations and other instrumentalities whose governing boards are comprised of a majority of members who are appointed or elected by the state or its political subdivisions, counties or municipalities; and all quasi-judicial bodies of the executive and legislative departments of the state and all standing, special, or advisory committees or subcommittees of, or appointed by, the body. The term “governmental body” does not include any of the following:
 - a. Legislative party caucuses or coalitions.
 - b. Alabama appellate or trial courts, except as required by the constitution of this state or any body governed by rules of the Alabama Supreme Court.
 - c. Voluntary membership associations comprised of public employees, counties, municipalities, or their instrumentalities which have not been delegated any legislative or executive functions by the Legislature or Governor.

- (5) **JOB PERFORMANCE.** The observed conduct or actions of a public employee or public official while on the job in furtherance of his or her assigned duties. Job performance includes whether a person is meeting, exceeding, or failing to meet job requirements or whether formal employment actions should be taken by the governmental body. Job performance does not include the general reputation and character of the person being discussed.
- (6) **MEETING.**
- a. Subject to the limitations herein, the term meeting shall only apply to the following:
1. The prearranged gathering of a quorum of a governmental body or a quorum of a committee or subcommittee of a governmental body at a time and place which is set by law or operation of law.
 2. The prearranged gathering of a quorum of a governmental body or a quorum of a committee or subcommittee of a governmental body during which the body, committee, or subcommittee of the governmental body is authorized, either by law or otherwise, to exercise the powers which it possesses or approve the expenditure of public funds.
 3. The gathering, whether or not it was prearranged, of a quorum of a governmental body or a quorum of a committee or a subcommittee of a governmental body during which the members of the governmental body deliberate specific matters that, at the time of the exchange, the participating members expect to come before the body, committee, or subcommittee at a later date.
- b. The term “meeting” shall not include:
1. Occasions when a quorum of a governmental body, committee, or subcommittee attends social gatherings, conventions, conferences, training programs, press conferences, media events, or otherwise gathers so long as the governmental body does not deliberate specific matters that, at the time of the exchange, the participating members expect to come before the governmental body at a later date.
 2. Occasions when a quorum of a governmental body gathers, in person or by electronic communication, with state or federal officials for the purpose of reporting or obtaining information or seeking support for issues of importance to the governmental body.
- (7) **OPEN OR PUBLIC PORTION OF A MEETING.** The open or public portion of a meeting is that portion which has not been closed for executive session in accordance with this chapter, for which prior notice was given in compliance with this chapter, and which is conducted so that constituents of the governmental body, members of the media, persons interested in the activities of the governmental body, and citizens of this state could, if they desired, attend and observe.
- (8) **PROFESSIONAL COMPETENCE.** The ability of an individual to practice a profession within the profession’s acceptable standards of care and responsibility. A profession is a vocation requiring certification by the State of Alabama or passage of a state licensing examination that may only be granted to or taken by persons who have completed at least three years of college-level education and obtained at least a college-level degree.
- (9) **PUBLIC EMPLOYEE.** Any person employed at the state, county, or municipal levels of government or their instrumentalities, including governmental corporations and authorities, who is paid in whole or in part from state, county, or municipal funds. 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.

- (10) **PUBLIC FUNDS.** Taxes or fees charged or collected by a governmental body or from the sale of public property including, but not limited to, matching funds from the federal government or income derived from the investment of taxes or fees.
- (11) **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 levels of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal levels of government or their instrumentalities, including governmental corporations.
- (12) **QUORUM.** Unless otherwise provided by law, a quorum is a majority of the voting members of a governmental body. Except where a governmental body is prohibited from holding a non-emergency meeting as defined in subdivision (6)a.1. between the date of election of members and the date such members take office, any person elected to serve on a governmental body shall be counted in the determination of whether a quorum of that governmental body is present, except for any meeting as defined in subdivisions (6)a.1. and 2., beginning on the date of certification of the results of the general election. In the case of appointment to a governmental body, any person shall be counted in the determination of whether a quorum of that governmental body is present, except for any meeting as defined in subdivisions (6)a.1. and 2., from the date that the appointment is made or issued whether or not the appointment is effective on that date.

Section 36-25A-3.

- (a) Unless otherwise specified by law and as provided herein, any governmental body subject to this chapter, except for an advisory board, advisory commission, advisory committee, task force, or other advisory body created solely to make recommendations on public policy issues and composed of persons who do not receive compensation for their service from public funds, shall post notice of all meetings, as defined in Section 36-25A-2(6)a.1., at least seven calendar days prior to the meeting as follows:
 - (1) The respective houses of the Alabama Legislature shall develop rules consistent with the Constitution of Alabama of 1901, providing for access to and prior notice of all sessions and standing committee and standing subcommittee meetings and all meetings of permanent and joint legislative committees.
 - (2) Any governmental body with statewide jurisdiction shall submit notice of its meeting to the Secretary of State. The Secretary of State shall post the notice on the Internet for at least seven calendar days prior to the day of the meeting. The Secretary of State shall also send electronic mail notifications to anyone who has registered with the Secretary of State to receive notification of meetings. The Secretary of State may promulgate reasonable rules and regulations necessary for the uniform receipt and posting of notice and of registration for electronic mail notification. The Secretary of State shall provide during regular office hours a computer terminal at a place convenient to the public in the office of the Secretary of State that members of the public may use to view notices of meetings posted by the Secretary of State. Any governmental body with less than statewide jurisdiction may also submit notice to the Secretary of State for posting on the website. Nothing shall prevent a governmental body subject to this subsection from posting notice in any additional manner.
 - (3) A municipal governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the city hall, provided, however, that a corporation a majority of whose governing board is appointed or elected by a municipality and that has a principal office separate from the city hall may, in lieu of posting notice in the city hall, post notice of each meeting on a bulletin board at a place convenient to the public in the principal office of the corporation or other instrumentality.
 - (4) A local school board shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the board.

- (5) Any other governmental body shall post notice of each meeting in a reasonable location or shall use a reasonable method of notice that is convenient to the public. Any change of the location or method for posting notices of meetings shall not take effect until the change has been approved at an open meeting by the members of the governmental body and announced to the public at an open meeting.
 - (6) If practicable, a governmental body other than those with statewide jurisdiction, in addition to the posting requirements, shall provide direct notification of a meeting, as defined in Section 36-25A-2(6)a., to any member of the public or news media covering that governmental body who has registered with the governmental body to receive notification of meetings. A governmental body may promulgate reasonable rules and regulations necessary for the uniform registration and payment for direct notice and for the distribution of the notices. The governmental body may choose to transmit a notice using electronic mail, telephone, facsimile, the United States Postal Service, or any other method reasonably likely to provide the requested notice. The actual cost of issuing notices, if there is one, may be required to be paid in advance by the person requesting notice by the governmental body. Direct notice to persons who have registered with the governmental body shall, at a minimum, contain the time, date, and place of the meeting.
- (b) Unless otherwise specified by law directly applicable to the governmental body, notice of a meeting, as defined in Section 36-25A-2(6)a.2. and 3. as well as meetings called pursuant to Section 11-43-50 shall be posted as soon as practicable after the meeting is called and in no event less than 24 hours before the meeting is scheduled to begin, unless such notice (i) is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property; or (ii) relates to a meeting to be held solely to accept the resignation of a public official or employee. In such situations, notice shall be given as soon as practical, but in no case less than one hour before the meeting is to begin. At the same time general notice is given, special notice shall be directed to any person who has registered to receive direct notices pursuant to the provisions of subsection (a)(6).
 - (c) Posted notice pursuant to this section shall include the time, date, and place of meeting. If a preliminary agenda is created, it shall be posted as soon as practicable in the same location or manner as the notice given pursuant to this section. A governmental body may discuss at a meeting additional matters not included in the preliminary agenda. If a preliminary agenda is not available, the posted notice shall include a general description of the nature and purpose of the meeting.
 - (d) County commissions which provide proper notice in conformance with Section 11-3-8 shall not be required to comply with subsections (a), (b), and (c) of this section, nor shall committees or subcommittees of such commissions so long as the committees also comply with the notice procedures applicable to the full commission in Section 11-3-8.
 - (e) Governmental bodies may give, but shall not be required to give, notice of quasi-judicial or contested case hearings which could properly be conducted as an executive session under this chapter or existing state law.
 - (f) A governmental body is authorized, but not required, to provide notice in addition to that specified in this section and to provide notice for gatherings which are not meetings as defined in Section 36-25A-2(6).

Section 36-25A-4.

A governmental body shall maintain accurate records of its meetings, excluding executive sessions, setting forth the date, time, place, members present or absent, and action taken at each meeting. Except as otherwise provided by law, the records of each meeting shall become a public record and be made available to the public as soon as practicable after approval.

Section 36-25A-5.

- (a) Unless otherwise provided by law, meetings shall be conducted pursuant to the governing body's adopted rules of parliamentary procedure not in conflict with laws applicable to the governmental body.
- (b) Unless otherwise permitted by this chapter or directed by provisions in the Constitution of Alabama of 1901, or other existing state law applicable to the governmental body, all votes on matters before a governmental body, including, but not limited to, votes to appropriate or to authorize a governmental body's designated employee, within limits prescribed by the governmental body without further authorization of the governmental body, to spend public funds, to levy taxes or fees, to forgive debts to the governmental body, or to grant tax abatements, shall be made during the open or public portion of a meeting for which notice has been provided pursuant to this chapter. Voice votes may be allowed. Unless permitted by this chapter, existing statute, or constitutional amendment, no votes shall be taken in executive sessions. Unless otherwise directed by provisions in the Constitution of Alabama of 1901, or other existing state law applicable to a governmental body, a governmental body may not vote by secret ballot.

Section 36-25A-6.

A meeting of a governmental body, except while in executive session, may be openly recorded by any person in attendance by means of a tape recorder or any other means of sonic, photographic, or video reproduction provided the recording does not disrupt the conduct of the meeting. The governmental body may adopt reasonable rules for the implementation of this section.

Section 36-25A-7.

- (a) Executive sessions are not required by this chapter, but may be held by a governmental body only for the following purposes:
 - (1) To discuss the general reputation and character, physical condition, professional competence, or mental health of individuals, or, subject to the limitations set out herein, to discuss the job performance of certain public employees. However, except as provided elsewhere in this section, discussions of the job performance of specific public officials or specific public employees may not be discussed in executive session if the person is an elected or appointed public official, an appointed member of a state or local board or commission, or a public employee who is one of the classification of public employees required to file a statement of economic interests with the Alabama Ethics Commission pursuant to Section 36-25-14. Except as provided elsewhere in this section, the salary, compensation, and job benefits of specific public officials or specific public employees may not be discussed in executive session.
 - (2) When expressly allowed by federal law or state law, to consider the discipline or dismissal of, or to hear formal written complaints or charges brought against a public employee, a student at a public school or college, or an individual, corporation, partnership, or other legal entity subject to the regulation of the governmental body.
 - (3) To discuss with their attorney the legal ramifications of and legal options for pending litigation, controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the governmental body pursues a proposed course of action, or to meet or confer with a mediator or arbitrator with respect to any litigation or decision concerning matters within the jurisdiction of the governmental body involving another party, group, or body. Prior to voting to convene an executive session under this exception the governmental body shall receive a written opinion or oral declaration reflected in the minutes from an attorney licensed to practice law in Alabama that this exception is applicable to the planned discussion. Such declaration shall not otherwise constitute a waiver of the attorney-client privilege. Notwithstanding the foregoing, if any deliberation

begins among the members of the governmental body regarding what action to take relating to pending or threatened litigation based upon the advice of counsel, the executive session shall be concluded and the deliberation shall be conducted in the open portion of the meeting or the deliberation shall cease.

- (4) To discuss security plans, procedures, assessments, measures, or systems, or the security or safety of persons, structures, facilities, or other infrastructures, including, without limitation, information concerning critical infrastructure, as defined by federal law, and critical energy infrastructure information, as defined by federal law, the public disclosures of which could reasonably be expected to be detrimental to public safety or welfare. Provided, however, that when the discussion involves critical infrastructure or critical energy infrastructure information, the owners and operators of such infrastructure shall be given notice and an opportunity to attend the session.
- (5) To discuss information that would disclose the identity of an undercover law enforcement agent or informer or to discuss the criminal investigation of a person who is not a public official in which allegations or charges of specific criminal misconduct have been made or to discuss whether or not to file a criminal complaint. Provided, however, that prior to such discussions a law enforcement officer with authority to make an arrest or a district or assistant district attorney or the Attorney General or assistant attorney general shall advise the governmental body in writing or by oral declaration entered into the minutes that the discussions would imperil effective law enforcement if disclosed outside of an executive session.
- (6) To discuss the consideration the governmental body is willing to offer or accept when considering the purchase, sale, exchange, lease, or market value of real property. Provided, however, that the material terms of any contract to purchase, exchange, or lease real property shall be disclosed in the public portion of a meeting prior to the execution of the contract. If an executive session is utilized pursuant to this exception in addition to the members of the governmental body, only persons representing the interests of the governmental body in the transaction may be present during the executive session. This real property discussion exception shall not apply if:
 - a. Any member of the governmental body involved in the transaction has a personal interest in the transaction and attends or participates in the executive session concerning the real property.
 - b. A condemnation action has been filed to acquire the real property involved in the discussion.
- (7) To discuss preliminary negotiations involving matters of trade or commerce in which the governmental body is in competition with private individuals or entities or other governmental bodies in Alabama or in other states or foreign nations or to discuss matters or information of the character defined or described in the Alabama Trade Secrets Act. Provided, however, that prior to such discussions a person involved in the recruitment or retention effort or who has personal knowledge that the discussion will involve matter or information of the character defined or described in the Alabama Trade Secrets Act advises the governmental body in writing or by oral declaration entered into the minutes that the discussions would have a detrimental effect upon the competitive position of a party to the negotiations or upon the location, retention, expansion, or upgrading of a public employee or business entity in the area served by the governmental body if disclosed outside of an executive session, or would disclose information protected by the Alabama Trade Secrets Act.
- (8) To discuss strategy in preparation for negotiations between the governmental body and a group of public employees. Provided, however, that prior to such discussions a person representing the interests of a governmental body involved in such negotiations advises the governmental body in writing or by oral declaration entered into the minutes that the discussions would have a detrimental effect upon the negotiating position of the governmental body if disclosed outside of an executive session.
- (9) To deliberate and discuss evidence or testimony presented during a public or contested case hearing and vote upon the outcome of the proceeding or hearing if the governmental body is acting in the capacity of a quasi-judicial body, and either votes upon its decision in an open meeting or issues a written decision

which may be appealed to a hearing officer, an administrative board, court, or other body which has the authority to conduct a hearing or appeal of the matter which is open to the public.

- (b) A governmental body desiring to convene an executive session, other than to conduct a quasi-judicial or contested case hearing, shall utilize the following procedure:
 - (1) A quorum of the governmental body must first convene a meeting as defined in Section 36-25A-2(6)a.1. and 2.
 - (2) A majority of the members of the governmental body present must adopt, by recorded vote, a motion calling for the executive session and setting out the purpose of the executive session, as provided in subsection (a). If subsection (a) requires an oral or written declaration before the executive session can begin, such oral or written declaration shall be made, prior to the vote.
 - (3) The vote of each member shall be recorded in the minutes.
 - (4) Prior to calling the executive session to order, the presiding officer shall state whether the governmental body will reconvene after the executive session and, if so, the approximate time the body expects to reconvene.

Section 36-25A-8.

In addition to any existing applicable immunity, members of a governmental body and any of its employees participating in a meeting conducted in conformance with this chapter shall have an absolute privilege and immunity from suit for any statement made during the meeting which relates to an action pending before the governmental body.

Section 36-25A-9.

- (a) Enforcement of this chapter may be sought by civil action brought in the county where the governmental body's primary office is located by any media organization, any Alabama citizen, the Attorney General, or the district attorney for the circuit in which the governmental body is located; provided, however, that no member of a governmental body may serve as a plaintiff in an action brought against another member of the same governmental body for an alleged violation of this chapter. The complaint shall be verified, shall state specifically the applicable ground or grounds for the complaint as set out in subdivisions (b)(1) through (4) of subsection (b), and shall name in their official capacity all members of the governmental body remaining in attendance at the alleged meeting held in violation of this chapter. Members of a governmental body who are named as a defendant in a complaint under this chapter shall serve an initial response to the complaint within seven business days of personal service of the complaint. A preliminary hearing on the complaint filed shall be held no later than 10 business days after the date of the filing of the defendant or defendants' initial response to the complaint or, if no response is filed, no later than 17 business days after the filing of the complaint, or on the nearest day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties.
- (b) In the preliminary hearing on the complaint, the plaintiff shall establish by a preponderance of the evidence that a meeting of the governmental body occurred and that each defendant attended the meeting. Additionally, to establish a prima facie case the plaintiff must present substantial evidence of one or more of the following claims:
 - (1) That the defendants disregarded the requirements for proper notice of the meeting pursuant to the applicable methods set forth in Section 36-25A-3.

- (2) That the defendants disregarded the provisions of this chapter during a meeting, other than during an executive session.
 - (3) That the defendants voted to go into executive session and while in executive session the defendants discussed matters other than those subjects included in the motion to convene an executive session as required by Section 36-25A-7(b).
 - (4) That, other than a claim under subdivisions (1) through (3), the defendants intentionally violated other provisions of this chapter.
- (c) If the court finds that the plaintiff has met its initial burden of proof as required in subsection (b) at the preliminary hearing, the court shall establish a schedule for discovery and set the matter for a hearing on the merits. If, at the preliminary hearing, the plaintiff has presented its prima facie case that an executive session appears to have been improperly conducted as set out in subsection (b)(3), the defendants shall bear the burden of proof at the hearing on the merits to prove by a preponderance of the evidence that the discussions during the executive session were limited to matters related to the subjects included in the motion to convene an executive session required in Section 36-25A-7(a).
 - (d) During a proceeding involving claims brought under subsection (b)(3), the court shall conduct an in camera proceeding or adopt another procedure as necessary to protect the confidentiality of the matters discussed during the executive session, and if there is a determination that the executive session was authorized by this chapter, the matters shall not be disclosed or utilized in any other legal proceeding by any individual or attorney who attends the in camera portion of the proceedings.
 - (e) Upon proof by a preponderance of the evidence of a defendant's violation of this chapter, the circuit court shall issue an appropriate final order including, if appropriate, a declaratory judgment or injunction. Prior to a final determination of the merits, temporary restraining orders or preliminary injunctions may be issued upon proper motion and proof as provided and required in the Alabama Rules of Civil Procedure. A final order on the merits shall be issued within 60 days after the preliminary hearing unless a longer period is consented to by all parties and the court.
 - (f) The court may invalidate the action or actions taken during a meeting held in violation of this chapter, provided that the complaint is filed within 21 days of the date when the action is made public, the violation was not the result of mistake, inadvertence, or excusable neglect, and invalidation of the governmental action taken would not unduly prejudice third parties who have changed their position or taken action in good faith reliance upon the challenged action of the governmental body; provided, further however, that any action taken at an open meeting conducted in a manner consistent with this chapter shall not be invalidated because of a violation of this chapter which occurred prior to such meeting.
 - (g) A final order issued against a defendant shall state specifically upon which claim or claims in subdivisions (1) through (4) the ruling is based. For each meeting proven to be held in violation of this chapter for one or more reasons, the court shall impose a civil penalty. The maximum penalty for each meeting shall not exceed one thousand dollars (\$1,000) or one half of the defendant's monthly salary for service on the governmental body, whichever is less. With regard to claims related to improper discussions during executive sessions, monetary penalties may only be assessed against defendant members of a governmental body who voted to go into an executive session and who remained in the executive session during a discussion determined by the court not to have been authorized by this chapter. Penalties imposed against a member of a governmental body found to have acted in violation of this chapter shall not be paid by nor reimbursed to the member by the governmental body he or she serves.
 - (h) A governmental body is authorized to pay for or provide for the legal expenses of present or former members of the body named as defendants in a proceeding under this chapter.

Section 36-25A-10.

An action under this chapter must be brought within 60 days of the date that the plaintiff knew or should have known of the alleged act which brings rise to the cause of action; provided, however, that any action under this chapter must be brought within two years of the alleged act which brings rise to the cause of action.

Section 36-25A-11.

Section 13A-14-2, is repealed. All specific references in the *Code of Alabama 1975* to Section 13A-14-2 shall be considered a reference to this chapter and where expressly excluded or included from application of Section 13A-14-2, the exclusion or inclusion from application shall remain as it applies to these new sections. The Code Commissioner, when appropriate, shall implement these changes in the *Code of Alabama 1975*. Nothing in this chapter shall be construed to repeal or amend any portion of the *Code of Alabama 1975*, in effect on October 1, 2005, except as expressly provided herein.

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Title 39

Public Works

Chapter 1 – General Provisions

Section 39-1-1.

- (a) Any person entering into a contract with an awarding authority in this state for the prosecution of any public works shall, before commencing the work, execute a performance bond, with penalty equal to 100 percent of the amount of the contract price. In addition, another bond, payable to the awarding authority letting the contract, shall be executed in an amount not less than 50 percent of the contract price, with the obligation that the contractor or contractors shall promptly make payments to all persons supplying labor, materials, or supplies for or in the prosecution of the work provided in the contract and for the payment of reasonable attorneys' fees incurred by successful claimants or plaintiffs in civil actions on the bond.
- (b) Any person that has furnished labor, materials, or supplies for or in the prosecution of a public work and payment has not been made may institute a civil action upon the payment bond and have their rights and claims adjudicated in a civil action and judgment entered thereon. Notwithstanding the foregoing, a civil action shall not be instituted on the bond until 45 days after written notice to the surety of the amount claimed to be due and the nature of the claim. The civil action shall be commenced not later than one year from the date of final settlement of the contract. The giving of notice by registered or certified mail, postage prepaid, addressed to the surety at any of its places of business or offices shall be deemed sufficient under this section. In the event the surety or contractor fails to pay the claim in full within 45 days from the mailing of the notice, then the person or persons may recover from the contractor and surety, in addition to the amount of the claim, a reasonable attorney's fee based on the result, together with interest on the claim from the date of the notice.
- (c) Every person having a right of action on the last described bond as provided in this section shall, upon written application to the authority under the direction of whom the work has been prosecuted, indicating that labor, material, foodstuffs, or supplies for the work have been supplied and that payment has not been made, be promptly furnished a certified copy of the additional bond and contract. The claimant may bring a civil action in the claimant's name on the bond against the contractor and the surety, or either of them, in the county in which the work is to be or has been performed or in any other county where venue is otherwise allowed by law.
- (d) In the event a civil action is instituted on the payment bond, at any time more than 15 days before the trial begins, any party may serve upon the adverse party an offer to accept judgment in favor of the offeror or to allow judgment to be entered in favor of the offeree for the money or as otherwise specified in the offer. If within 10 days after the service of the offer, the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service and the clerk of the court shall enter judgment. An offer not accepted shall be deemed withdrawn and evidence of the offer shall not be admissible. If the judgment finally obtained by the offeree is less favorable than the offer, the offeree shall pay the reasonable attorney's fees and costs incurred by the offeror after the making of the offer. An offer that is made but not accepted does not preclude a subsequent offer. When the liability of one party to another party has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, any party may make an offer of judgment, which shall have the same effect as an offer made before trial if the offer is made no less than 10 days prior to the commencement of hearings to determine the amount or extent of liability.
- (e) This section shall not require the taking of a bond to secure contracts in an amount less than fifty thousand dollars (\$50,000).

- (f) The contractor shall, immediately after the completion of the contract, give notice of the completion by an advertisement in a newspaper of general circulation published within the city or county in which the work has been done, for a period of four successive weeks. A final settlement shall not be made upon the contract until the expiration of 30 days after the completion of the notice. Proof of publication of the notice shall be made by the contractor to the authority by whom the contract was made by affidavit of the publisher and a printed copy of the notice published. If no newspaper is published in the county in which the work is done, the notice may be given by posting at the courthouse for 30 days, and proof of same shall be made by the judge of probate, sheriff, and the contractor.
- (g) Subsection (f) shall not apply to contractors performing contracts of less than fifty thousand dollars (\$50,000) in amount. In such cases, the governing body of the contracting agency, to expedite final payment, shall cause notice of final completion of the contract to be published one time in a newspaper of general circulation, published in the county of the contracting agency and shall post notice of final completion on the agency's bulletin board for one week, and shall require the contractor to certify under oath that all bills have been paid in full. Final settlement with the contractor may be made at any time after the notice has been posted for one entire week.

Section 39-1-2.

All persons, to be eligible to bid on asphalt plant mix to be sold to the State of Alabama, shall have the asphalt plants inspected and certified by the Department of Transportation. The certification shall be made by the Bureau of Materials and Tests and shall include a statement that the plant meets the requirements set forth in the current edition of the State of Alabama Department of Transportation standard specifications for highways and bridges.

Section 39-1-3.

Any contractor performing a public works contract in which any state, county, or municipal funds are utilized shall be allowed reimbursement for any additional severance, sales, or use taxes incurred by the contractor as a result of an increase in the rate of severance, sales, or use taxes imposed during the time of performance of the contract. Time of performance shall be the time the contractor submits the bid until completion of the contract.

Section 39-1-4.

- (a) No officer or employee of an awarding authority and no person acting or purporting to act on behalf of such officer or employee of an awarding authority, except a public agency or authority created pursuant to agreement or compact with another state, shall, with respect to any public works contract, require the bidder to obtain or procure any surety bond or contract of insurance specified in connection with such contract or specified by any law, ordinance, or regulation from a particular surety company, insurance company, bonding company, agent, or broker. No officer, employee, person, firm, or corporation acting or purporting to act on behalf of any officer or employee of an awarding authority shall negotiate, make application, obtain, or procure any surety bond or contract of insurance, except contracts of insurance for builder's risk or owner's protective liability, which shall be obtained or procured by the bidder, contractor, or subcontractor, with the following exceptions:
 - (1) Contracts of insurance for builder's risk, all risk, or owner's protective liability;
 - (2) Contracts of insurance of any kind for any public works project involving an amount in excess of forty million dollars (\$40,000,000);
 - (3) Contracts of insurance of any kind obtained or procured by a single awarding authority for a group of public works projects involving an aggregate amount in excess of ninety million dollars (\$90,000,000)

which are financed substantially by bond issues by the awarding authority or part of a programmatically related group of public works projects, and meeting all of the following criteria:

- (a) All projects are located within the same county;
 - (b) All projects are located within 10 miles of each other;
 - (c) All projects are part of the same duly authorized annual capital development plan of the authority.
- (b) The provisions of subsection (a) shall not prevent an officer or employee on behalf of an awarding authority from exercising the right to approve the form, sufficiency, or manner of execution of the surety bonds or contracts of insurance furnished by the surety company, insurance company, or bonding company selected by the bidder to underwrite surety bonds or contracts of insurance. The insurance company, bonding company, or surety company shall meet all requirements for such companies otherwise provided for by law.
- (c) All provisions in any invitation for bids or in any of the contract documents in conflict with this section are declared to be void and unenforceable as contrary to the public policy of this state.

Section 39-1-5.

Notwithstanding any other laws to the contrary, Act 97-225 shall control all public works contracts on the state, county, and municipal levels of government in the State of Alabama.

Chapter 2 – Letting, Execution, and Administration of Contracts

Section 39-2-1.

As used in this title, the following words shall have the meanings ascribed to them as follows:

- (1) **AWARDING AUTHORITY.** Any governmental board, commission, agency, body, authority, instrumentality, department, or subdivision of the state, its counties and municipalities. This term includes, but shall not be limited to, the Department of Transportation, the State Building Commission, the State Board of Education, and any other entity contracting for public works. This term shall exclude the State Docks Department and any entity exempted from the competitive bid laws of the state by statute.
- (2) **FORCE ACCOUNT WORK.** Work paid for by reimbursing for the actual costs for labor, materials, and equipment usage incurred in the performance of the work, as directed, including a percentage for overhead and profit, where appropriate.
- (3) **PERSON.** Natural persons, partnerships, limited liability companies, corporations, and other legal entities.
- (4) **PUBLIC PROPERTY.** Real property which the state, county, municipality, or awarding authority thereof owns or has a contractual right to own or purchase, including easements, rights-of-way, or otherwise.
- (5) **PUBLIC WORKS.** The construction, repair, renovation, or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses, and viaducts as well as any other improvement to be constructed, repaired, renovated, or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.

Section 39-2-2.

- (a) Before entering into any contract for a public works involving an amount in excess of fifty thousand dollars (\$50,000), the awarding authority shall advertise for sealed bids. If the awarding authority is the state or a county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or some part thereof, is to be made. If the awarding authority is a municipality, or an instrumentality thereof, it shall advertise for sealed bids at least once in a newspaper of general circulation published in the municipality where the awarding authority is located. If no newspaper is published in the municipality, the awarding authority shall advertise by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for the length of time as may be determined. In addition to bulletin board notice, sealed bids shall also be solicited by sending notice by mail to all persons who have filed a request in writing with the official designated by the awarding authority that they be listed for solicitation on bids for the public works contracts indicated in the request. If any person whose name is listed fails to respond to any solicitation for bids after the receipt of three such solicitations, the listing may be canceled. With the exception of the Department of Transportation, for all public works contracts involving an estimated amount in excess of five hundred thousand dollars (\$500,000), awarding authorities shall also advertise for sealed bids at least once in three newspapers of general circulation throughout the state. The advertisements shall briefly describe the improvement, state that plans and specifications for the improvement are on file for examination in a designated office of the awarding authority, state the procedure for obtaining plans and specifications, state the time and place in which bids shall be received and opened, and identify whether prequalification is required and where all written prequalification information is available for review. All bids shall be opened publicly at the advertised time and place. No public work as defined in this chapter involving a sum in excess of fifty thousand dollars (\$50,000) shall be split into parts involving sums of fifty thousand dollars (\$50,000) or less for the purpose of evading the requirements of this section.
- (b) An awarding authority may let contracts for public works involving fifty thousand dollars (\$50,000) or less with or without advertising or sealed bids.
- (c) All contracts for public works entered into in violation of this title shall be null, void, and violative of public policy. Anyone who willfully violates this article concerning public works shall be guilty of a Class C felony.
- (d) Excluded from the operation of this title shall be contracts with persons who shall perform only architectural, engineering, construction management, program management, or project management services in support of the public works and who shall not engage in actual construction, repair, renovation, or maintenance of the public works with their own forces, by contract, subcontract, purchase order, lease, or otherwise.
- (e) In case of an emergency affecting public health, safety, or convenience, as declared in writing by the awarding authority, setting forth the nature of the danger to the public health, safety, or convenience which would result from delay, contracts may be let to the extent necessary to meet the emergency without public advertisement. The action and the reasons for the action taken shall immediately be made public by the awarding authority upon request.
- (f) No awarding authority may specify in the plans and specifications for the improvement the use of materials, products, systems, or services by a sole source unless all of the following requirements are met:
 - (1) Except for contracts involving the construction, reconstruction, renovation, or replacement of public roads, bridges, and water and sewer facilities, the awarding authority can document to the satisfaction of the State Building Commission that the sole source product, material, system, or service is of an indispensable nature for the improvement, that there are no other viable alternatives, and that only this particular product, material, system, or service fulfills the function for which it is needed.
 - (2) The sole source specification has been recommended by the architect or engineer of record as an indispensable item for which there is no other viable alternative.

- (3) All information substantiating the use of a sole source specification, including the recommendation of the architect or engineer of record, shall be documented and made available for examination in the office of the awarding authority at the time of advertisement for sealed bids.

Section 39-2-3.

- (a) For contracts let by the Department of Transportation, proposals may be obtained only upon payment of a fee, to be determined by the Department of Transportation, not in excess of five dollars (\$5). Plans and specifications may be obtained only upon payment of a fee, to be determined by the Department of Transportation, not to exceed the actual cost of printing such plans and specifications.
- (b) For all other awarding authorities, an adequate number of sets of bid documents, as determined by the awarding authority, may be obtained by prime contractor bidders upon payment of a deposit for each set, which deposit shall not exceed twice the cost of printing, reproduction, handling, and distribution of each set. The deposit shall be refunded in full to each prime contractor bidder upon return of the documents in reusable condition within 10 days after bid opening. Additional sets for prime contractor bidders, subcontractors, vendors, or dealers may be obtained upon payment of the same deposit. The deposit shall be refunded less the cost of printing, reproduction, handling, and distribution, upon return of the documents in reusable condition within 10 days after bid opening. All refunds are due from the awarding authority within 20 days after bid opening.
- (c) Building exchanges and similar agencies may be furnished plans and specifications without charge.

Section 39-2-4.

- (a) The bidder shall be required to file with his or her bid either a cashier's check drawn on an Alabama bank or a bid bond executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama, payable to the awarding authority for an amount not less than five percent of the awarding authority's estimated cost or of the contractor's bid, but in no event more than ten thousand dollars (\$10,000). The bid guaranties as provided in this section shall constitute all of the qualifications or guaranty to be required of contractors as prerequisites to bidding for public works, except as required by the State Licensing Board for General Contractors and the prequalification as required by the Department of Transportation, the Building Commission, or any other awarding authority.
- (b) With the exception of the Department of Transportation which has prequalification procedures and criteria set forth by statute, any awarding authority that proposes to prequalify bidders shall establish written prequalification procedures and criteria that (1) are published sufficiently in advance of any affected contract so that a bona fide bidder may seek and obtain prequalification prior to preparing a bid for that contract, such publication to be accomplished by the methods specified in subsection (a) of Section 39-2-2; (2) are related to the purpose of the contract or contracts affected; (3) are related to contract requirements or the quality of the product or service in question; (4) are related to the responsibility, including the competency, experience, and financial ability, of a bidder; and (5) will permit reasonable competition at a level that serves the public interest. The prequalification publication may run concurrently with the publication required under subsection (a) of Section 39-2-2, provided it produces the above required advance notice.
- (c) Within the bounds of good faith, the awarding authority retains the right to determine whether a contractor has met prequalification procedures and criteria.
- (d) Any bidder who has prequalified pursuant to the requirements in subsection (b) shall be deemed "responsible" for purposes of award unless the prequalification is revoked by the awarding authority under the following procedures: (1) No later than five working days or the next regular meeting after the opening of bids, the awarding authority issues written notice to the bidder of its intent to revoke prequalification and the grounds therefore; (2) the bidder is then provided an opportunity to be heard before the awarding authority on

the intended revocation; (3) the awarding authority makes a good faith showing of a material inaccuracy in the prequalification application of a bidder or of a material change in the responsibility of the bidder since submitting its prequalification application; and (4) the revocation of prequalification is determined no later than 10 days after written notice of intent to revoke, unless the bidder whose qualification is in question agrees in writing to an extension in time.

- (e) Nothing in this section shall preclude the rejection of a bidder determined not responsible nor the inclusion of criteria in the bid documents which would limit contract awards to responsible bidders where no prequalification procedure is employed by the awarding authority.

Section 39-2-5.

All bid guaranties, except those of the three lowest bona fide bidders, shall be returned immediately after bids have been checked, tabulated, and the relation of the bids established. The bid guaranties of the three lowest bidders shall be returned as soon as the contract bonds and the contract of the successful bidder have been properly executed and approved. When the award is deferred for a period of time longer than 15 days after the opening of the bids, all bid guaranties, except those of the potentially successful bidders, shall be returned. If no award is made within 30 days after the opening of the bids, or such other time as specified in the bid documents, all bids shall be rejected and all guaranties returned, except for any potentially successful bidder that agrees in writing to a stipulated extension in time for consideration of its bid, in which case the awarding authority may permit the potentially successful bidder to substitute a satisfactory bidder's bond for the cashier's check submitted with its bid as a bid guaranty.

Section 39-2-6.

- (a) The contract shall be awarded to the lowest responsible and responsive bidder, unless the awarding authority finds that all the bids are unreasonable or that it is not to the interest of the awarding authority to accept any of the bids. A responsible bidder is one who, among other qualities determined necessary for performance, is competent, experienced, and financially able to perform the contract. A responsive bidder is one who submits a bid that complies with the terms and conditions of the invitation for bids. Minor irregularities in the bid shall not defeat responsiveness. The bidder to whom the award is made shall be notified by telegram, confirmed facsimile, or letter at the earliest possible date. If the successful bidder fails or refuses to sign the contract, to make bond as provided in this chapter or to provide evidence of insurance as required by the bid documents, the awarding authority may award the contract to the second lowest responsible and responsive bidder. If the second lowest bidder fails or refuses to sign the contract, make bond as provided in this chapter or to provide evidence of insurance as required by the bid documents, the awarding authority may award the contract to the third lowest responsible and responsive bidder.
- (b) If no bids or only one bid is received at the time stated in the advertisement for bids, the awarding authority may advertise for and seek other competitive bids, or the awarding authority may direct that the work shall be done by force account under its direction and control or, with the exception of the Department of Transportation, the awarding authority may negotiate for the work through the receipt of informal bids not subject to the requirements of this section. Where only one responsible and responsive bid has been received, any negotiation for the work shall be for a price lower than that bid.
- (c) If the awarding authority finds that all bids received are unreasonable or that it is not to the interest of the awarding authority to accept any of the bids, the awarding authority may direct that the work shall be done by force account under its direction and control.
- (d) On any construction project on which the awarding authority has prepared plans and specifications, received bids, has determined to do by force account or by negotiation, the awarding authority shall make available the plans and specifications, an itemized estimate of cost and any informal bids for review by the Department of Examiners of Public Accounts and, upon completion of the project by an awarding authority, the final total costs together with an itemized list of cost of any and all changes made in the original plans and

specifications shall also be made available for review by the Department of Examiners of Public Accounts. Furthermore, the above described information shall be made public by the awarding authority upon request. Upon the approval of the awarding authority, its duly authorized officer or officers may, when proceeding upon the basis of force account, let any subdivision or unit of work by contract on informal bids.

- (e) No provision of this section shall be interpreted as precluding the use of convict labor by the awarding authority. This section shall not apply to routine maintenance and repair jobs done by maintenance personnel who are regular employees of the awarding authority, nor shall it apply to road or bridge construction work performed by an awarding authority's regular employees and own equipment.
- (f) No contract awarded to the lowest responsible and responsive bidder shall be assignable by the successful bidder without written consent of the awarding authority, and in no event shall a contract be assigned to an unsuccessful bidder whose bid was rejected because he or she was not a responsible or responsive bidder.
- (g) Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition to bid at a fixed price or to refrain from bidding or otherwise shall render the bids void and shall cause the bidders or prospective bidders to be disqualified from submitting further bids to the awarding authority on future lettings. Any bidder or prospective bidder who willfully participates in any agreement or collusion in restraint of freedom of competition shall be guilty of a felony and, on conviction thereof, shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000) or, at the discretion of the jury, shall be imprisoned in the penitentiary for not less than one nor more than three years.
- (h) Any disclosure in advance of the terms of a bid submitted in response to an advertisement for bids shall render the proceedings void and require advertisement and award anew.

Section 39-2-7.

In case of error in the extension of prices in bids, the unit price will govern. In case of discrepancy between the prices shown in the figures and in words, the words will govern.

Section 39-2-8.

The bidder to whom the award is made shall, when required, enter into a written contract on the form included in the proposal, plans, and specifications, furnish a performance bond and payment bond executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama in the amount required by subsection (a) of Section 39-1-1 and provide evidence of insurance as required by the bid documents within the period specified or, if no period is specified, within 15 days after the prescribed forms have been presented to him or her for signature. If extenuating circumstances prevail, the awarding authority may grant an extension in time not exceeding five days for the return of the contract, required bonds and required evidence of insurance.

Section 39-2-9.

The awarding authority shall approve the contractor's bonds meeting the requirements of Section 39-2-8 and the contractor's evidence of insurance meeting the requirements of the bid documents, as well as complete the execution of the contract, within 20 days after their presentation by the contractor unless the successful contractor agrees in writing to a longer period.

Section 39-2-10.

A proceed order shall be issued by the awarding authority within 15 days after final execution of the contract by the awarding authority, and execution by the Governor if his or her signature on the contract is required by law, unless both parties agree in writing to a stipulated extension in time for the issuance of a proceed order.

Section 39-2-11.

- (a) Should the successful bidder or bidders to whom a contract is awarded fail to execute a contract and furnish acceptable contract securities and evidence of insurance as required by law within the period as set forth in Section 39-2-8, the awarding authority shall retain from the proposal guaranty, if it is a cashier's check, or recover from the principal or the sureties, if the guaranty is a bid bond, the difference between the amount of the contract as awarded and the amount of the proposal of the next lowest bidder. If no other bids are received, the full amount of the proposal guaranty shall be so retained or recovered as liquidated damages for such default. Any sums so retained or recovered shall be the property of the awarding authority.
- (b) In the event of the death of a low bidder between the date of the opening of bids and the 15 days following the date of award of contract as allowed in Section 39-2-8 for furnishing of contract securities and evidence of insurance, the awarding authority shall return the proposal guaranty intact to the estate of the deceased low bidder.
- (c) Failure by the awarding authority to complete the execution of a contract and to issue a proceed order as required in Sections 39-2-9 and 39-2-10 shall be just cause, unless both parties agree in writing to a stipulated extension in time for issuance of a proceed order, for the withdrawal of the contractor's bid and contract without forfeiture of the certified check or bond.
- (d) Except for contracts let by the Department of Transportation, if the low bidder discovers a mistake in its bid rendering a price substantially out of proportion to that of other bidders, the low bidder may seek withdrawal of its bid without forfeiture upon written notice to the awarding authority within three working days after the opening of bids whether or not award has been made. If the low bidder offers clear and convincing documentary evidence as soon as possible, but no later than three working days after the opening of bids, that it made such a mistake due to calculation or clerical error, an inadvertent omission, or a typographical error, the awarding authority shall permit withdrawal without forfeiture. The decision of the awarding authority shall be made within 10 days after receipt of the low bidder's evidence or by the next regular meeting of the awarding authority. In no event shall a mistake of law, judgment, or opinion constitute a valid ground for the withdrawal of a bid without forfeiture. Upon withdrawal of bid without forfeiture, the low bidder shall be prohibited from (1) doing any work on the contract, either as a subcontractor or in any other capacity, and (2) bidding on the same project if it is readvertised for letting.

Section 39-2-12.

- (a) As used in this section the following words shall have the meanings ascribed to them as follows:
 - (1) **CONTRACTOR.** Any natural person, partnership, company, firm, corporation, association, limited liability company, cooperative, or other legal entity licensed by the Alabama State Licensing Board for General Contractors.
 - (2) **NONRESIDENT CONTRACTOR.** A contractor which is neither a. organized and existing under the laws of the State of Alabama, nor b. maintains its principal place of business in the State of Alabama. A nonresident contractor which has maintained a permanent branch office within the State of Alabama for at least five continuous years shall not thereafter be deemed to be a nonresident contractor so long as the contractor continues to maintain a branch office within Alabama.

- (3) **RETAINAGE.** That money belonging to the contractor which has been retained by the awarding authority conditioned on final completion and acceptance of all work in connection with a project or projects by the contractor.
- (b) Unless otherwise provided in the specifications, partial payments shall be made as the work progresses at the end of each calendar month, or as soon thereafter as practicable, on the estimates made and approved by the awarding authority. In preparing estimates, the material delivered on the site, materials suitably stored and insured off-site, and preparatory work done may be taken into consideration.
- (c) In making the partial payments, there shall be retained not more than five percent of the estimated amount of work done and the value of materials stored on the site or suitably stored and insured off-site, and after 50 percent completion has been accomplished, no further retainage shall be withheld. The retainage as set out above shall be held until final completion and acceptance of all work covered by the contract unless the escrow or deposit arrangement described in subsections (f) and (g) is utilized. Provided, however, no retainage shall be withheld on contracts entered into by the Alabama Department of Transportation for the construction or maintenance of public highways, bridges, or roads.
- (d) In addition to other requirements, a nonresident contractor shall satisfy the awarding authority that he or she has paid all taxes due and payable to the State of Alabama or any political subdivision thereof prior to receiving final payment for contract work. When maintenance periods are included in the contract covering highways and bridges or similar structures, the periods shall be considered a component part of the contract. On completion and acceptance of each separate building, public work, or other division of the contract on which a price is stated separately in the contract or can be separately ascertained, payment may be made in full, including the retained percentage thereof, less authorized deductions. Nothing in this section shall be interpreted to require the awarding authority to make full payment on an item of work when the item of work is an integral part of a complete improvement.
- (e) In lieu of the retained amounts provided for in subsection (c) of this section, the awarding authority may provide in the specifications or contracts an alternate procedure for the maintenance of an escrow account as provided in subsection (f) or the depositing of security as provided in subsection (g).
- (f) An escrow account, established pursuant to an escrow agreement, shall be entered into only on the following conditions:
- (1) If the contractor shall have entered into more than one construction contract allowing for the maintenance of escrow accounts, the contractor may elect to combine the amounts held in lieu of retainage under each contract into one or more escrow accounts or may elect to establish a separate escrow account for each contract.
 - (2) Only state or national banks chartered within the State of Alabama or savings and loan associations domiciled in the State of Alabama may serve as an escrow agent.
 - (3) The escrow agent must limit the investment of funds held in escrow in lieu of retained amounts provided for in subsection (c) of this section to savings accounts, certificates of deposit or similar time deposit investments (which may, at the election of the contractor, be in an amount in excess of the maximum dollar amount of coverage by the Federal Deposit Insurance Corporation, the Federal Savings & Loan Insurance Corporation, or other similar agency), U.S. Treasury Bonds, U.S. Treasurer Notes, U.S. Treasurer Certificates of Indebtedness, U.S. Treasury Bills, bonds or notes of the State of Alabama or bonds of any political subdivision of the State of Alabama.
 - (4) As interest on all investments held in escrow becomes due, it shall be collected by the escrow agent and paid to the contractor.
 - (5) The escrow agent shall periodically acknowledge to the awarding authority and contractor the amount and value of the escrow account held by the escrow agent, and any additions to the escrow account by

the awarding authority shall be reported immediately to the contractor. Withdrawals from the escrow account shall only be made subject to the written approval of the awarding authority.

- (6) Upon default or overpayment, as determined by the awarding authority, of any contract or contracts subject to this procedure, and upon the written demand of the awarding authority, the escrow agent shall within 10 days deliver a cashier's check to the awarding authority in the amount of the escrow account balance (subject to the redemption value of such investments at the time of disbursement) relating to the contract or contracts in default.
 - (7) The escrow account may be terminated upon completion and acceptance of the contract or contracts as provided in subsections (c) and (i) of this section.
 - (8) All fees and expenses of the escrow agent shall be paid by the contractor to the escrow agent and if not paid shall constitute a lien on the interest accruing to the escrow account and shall be paid therefrom.
 - (9) The escrow account shall constitute a specific pledge to the awarding authority, and the contractor shall not, except to his surety, otherwise assign, pledge, discount, sell or transfer his interest in said escrow account, the funds in which shall not be subject to levy, garnishment, attachment or any other process whatsoever.
 - (10) The form of the escrow agreement and provisions thereof in compliance herewith, as well as such other provisions as the awarding authority shall from time to time prescribe, shall be subject to written approval of the awarding authority. The approval of the escrow agreement by the awarding authority shall authorize the escrow agent to accept appointment in such capacity.
 - (11) The awarding authority shall not be liable to the contractor or his surety for the failure of the escrow agent to perform under the escrow agreement, or for the failure of any financial institution to honor investments issued by it which are held in the escrow account.
- (g) The contractor may withdraw the whole or any part of the retainage upon deposit of securities only in accordance with the following procedures:
- (1) The contractor shall deposit with the State Treasurer or the municipal or county official holding funds belonging to the contractor, the following readily negotiable security or any combination thereof in an amount at least equal to the amount withdrawn, the security shall be accepted at the time of deposit at market value but not in excess of par value:
 - (a) U.S. Treasury Bonds, U.S. Treasury Notes, U.S. Treasury Certificates of Indebtedness, or U.S. Treasury Bills.
 - (b) Bonds or notes of the State of Alabama.
 - (c) Bonds of any political subdivision of the State of Alabama.
 - (d) Certificates of deposit issued by the Federal Deposit Insurance Corporation insured banks located in the State of Alabama. The certificates shall be negotiable and only in an amount not in excess of the maximum dollar amount of coverage by the Federal Deposit Insurance Corporation.
 - (e) Certificates of deposit issued by savings and loan associations located in the State of Alabama, the accounts of which are insured by the Federal Deposit Insurance Corporation or the accounts of which are insured by a company approved by the state Savings and Loan Board and the certificates shall be made payable with accrued interest on demand. Any certificate from any of the savings and loan associations referred to in this paragraph shall not be for an amount in excess of the maximum dollar amount of coverage of the Federal Deposit Insurance Corporation.

- (2) The agency or department of the state having jurisdiction over any public works contract shall notify the State Treasurer of the amount of the deposit required and shall also notify the State Treasurer when to release the deposit.
 - (3) The architect or engineer representing any municipality or county or the chair of any board, commission, or agency of any municipality or county shall notify the municipal or county official of the amount of deposit required and shall also notify the municipal or county official when to release the deposit.
 - (4) At the time of deposit of any security, the security may be endorsed and shall be accompanied by a conditional assignment to the public body designated as owner in the contract document, which assignment shall empower the State Treasurer, or the municipal or county official to negotiate the security at any time to the extent necessary to cause the fulfilling of the contract.
 - (5) Any interest or income due on any security deposited shall be paid to the contractor. If the deposit is in the form of coupon bonds, the coupons, as they respectively become due, shall be delivered to the contractor.
 - (6) In the event the contractor defaults in the performance of the contract or any portion of the contract, the securities deposited by the contractor in lieu of retainage and all interest, income, and coupons accruing on the securities, after default, may be sold by the state or any agency or department of the state, any municipality or county, or any board, commission, or agency of the municipality or county and the proceeds of the sale shall be used as if the proceeds represented the retainage provided for under the contract.
- (h) All material and work covered by partial payments made shall become the sole property of the awarding authority, but the contractor shall not be relieved from the sole responsibility for the care and protection of materials and work upon which payments have been made, and for the restoration of any damaged work.
- (i) Upon completion and acceptance of all work required, but not until 10 days after advertisement of the completion as provided by law, the amount due the contractor under the terms of the contract shall be paid upon the contractor's presentation of the following:
- (1) A properly executed and duly certified voucher for payment.
 - (2) A release, if required, of all claims and claims of lien against the awarding authority arising under and by virtue of the contract, other than such claims of the contractor, if any, as may be specifically excepted by the contractor from the operation of the release in stated amounts to be set forth therein.
 - (3) Proof of advertisement as provided by law.
- (j) If the Department of Transportation or a county awarding authority shall determine that there has been overpayment to a contractor on a contract award pursuant to this chapter, the Department of Transportation or the county awarding authority shall provide written notice of the overpayment to the contractor and the contractor shall remit the overpayment to the Department of Transportation or the county awarding authority within 120 days of receipt of the demand. If the contractor fails to remit payment in full of the overpayment within 120 days of receipt of demand, the contractor shall be disqualified from bidding as a prime contractor or from performing work as a subcontractor on any future Department of Transportation contract or county contract for the construction or maintenance of public highways, bridges, or roads until the overpayment is made.

Section 39-2-13.

For the purpose of carrying into effect the terms of this chapter and insuring to the state and its political subdivisions the award of all contracts to responsible and responsive bidders, the awarding authority may prepare and promulgate rules and regulations it deems proper, but not inconsistent with the terms of this chapter.

Section 39-2-14.

- (a) Every nonresident contractor, as defined in Section 39-2-12 shall register with the Department of Revenue prior to engaging in the performance of a contract in this state. At the time of registration the contractor shall deposit with the Department of Revenue five per centum of the amount such contractor is to receive for the performance of the contract which shall be held within a "contractors use tax fund" pending the completion of the contract, the determination of the taxes due this state and other governmental bodies, and the payment of same. In lieu of such deposit the contractor may provide a corporate surety bond to be approved by the Commissioner of Revenue as to form, sufficiency, value, amount, stability, and other features necessary to provide a guarantee of payment of the taxes due this state and other governmental bodies.
- (b) In addition, within 30 days after registration, the contractor shall file a statement with the Department of Revenue itemizing the machinery, materials, supplies, and equipment that he has or will have on hand at the time he begins the fulfillment of the contract where such tangible personal property has been brought, shipped, or transported from outside the State of Alabama upon which neither the use taxes or ad valorem taxes have been paid and shall pay the tax due thereon at the time of filing and thereafter shall report and pay the tax as required by the Commissioner of Revenue.
- (c) Upon payment of the said taxes due, as required hereby, the deposit or the surety bond required herein shall be returned forthwith to the out-of-state contractor posting same.
- (d) The Commissioner of Revenue shall have authority to promulgate rules and regulations to carry out the provisions of this section.

Chapter 3 – Use of Domestic Products and Resident Workmen

Section 39-3-1.

- (a) The awarding authority contracting for a public works project to be financed entirely by the State of Alabama or any political subdivision of the state, shall stipulate or cause to be stipulated in the contract a provision whereby the person, firm, or corporation undertaking the project agrees to use in the execution of the contract materials, supplies, and products manufactured, mined, processed, or otherwise produced in the United States or its territories, if the same are available at reasonable and competitive prices and are not contrary to any sole source specification implemented under subsection (f) of Section 39-2-2.
- (b) In the event the contractor breaches the agreement to use domestic products, and domestic products are not used, there shall be a downward adjustment in the contract price equal to any realized savings or benefits to the contractor.

Section 39-3-4.

- (a) Any contractor for a public works project, financed entirely by the State of Alabama or any political subdivision thereof, within this state shall use steel produced within the United States when specifications in the construction contract require the use of steel and do not limit its supply to a sole source under subsection (f) of Section 39-2-2. If the awarding authority decides that the procurement of the above mentioned domestic

steel products becomes impractical as a result of a national emergency, national strike, or other cause, the awarding authority shall waive the above restriction.

- (b) In the event the contractor violates the domestic steel requirements of subsection (a), and domestic steel is not used, there shall be a downward adjustment in the contract price equal to any realized savings or benefits to the contractor.

Section 39-3-5.

- (a) In the letting of public contracts in which any state, county, or municipal funds are utilized, except those contracts funded in whole or in part with funds received from a federal agency, preference shall be given to resident contractors, and a nonresident bidder domiciled in a state having laws granting preference to local contractors shall be awarded Alabama public contracts only on the same basis as the nonresident bidder's state awards contracts to Alabama contractors bidding under similar circumstances; and resident contractors in Alabama, as defined in Section 39-2-12, be they corporate, individuals, or partnerships, are to be granted preference over nonresidents in awarding of contracts in the same manner and to the same Extent as provided by the laws of the state of domicile of the nonresident.
- (b) A summary of this law shall be made a part of the advertised specifications of all projects affected by this law.

Chapter 5 – Actions and Proceedings

Section 39-5-1.

- (a) No civil action shall be brought or maintained by a contractor in any court in this state to require any awarding authority to pay out public funds for work and labor done, for materials supplied, or on any account connected with performance of a contract for public works, if the contract was let or executed in violation of or contrary to this title or any other provision of law.
- (b) The awarding authority shall, prior to the execution of final contracts and bonds, certify that the contract to be awarded is let in compliance with this title and all other applicable provisions of law; and, only for purposes of a civil action as referenced in subsection (a), the issuance of the certificate by the awarding authority shall constitute a presumption that the contract was let in accordance with the laws. The presumption may be rebutted only by a showing with clear and convincing evidence that the certification is false or fraudulent and that the contractor knew that the certification was false or fraudulent before execution of the contract.

Section 39-5-2.

Any awarding authority or its agents issuing a willfully false or fraudulent certificate as required by Section 39-5-1 shall be guilty of a felony and, on conviction thereof, shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000) or, at the discretion of the jury, shall be imprisoned in the penitentiary for not less than one nor more than three years.

Section 39-5-3.

An action shall be brought by the Attorney General or may be brought by any interested citizen, in the name and for the benefit of the awarding authority, to recover paid public funds from the contractor, its surety, or any person receiving funds under any public works contract let in violation of or contrary to this title or any other provision of law, if there is clear and convincing evidence that the contractor, its surety, or such person knew of the violation

before execution of the contract. The action shall be commenced within three years of final settlement of the contract.

Section 39-5-4.

The Attorney General, a bona fide unsuccessful or disqualified bidder, or any interested citizen may maintain an action to enjoin the letting or execution of any public works contract in violation of or contrary to the provisions of this title or any other statute and may enjoin payment of any public funds under any such contract. In the case of a successful action brought by a bidder, reasonable bid preparation costs shall be recoverable by that bidder. The action shall be commenced within 45 days of the contract award.

Section 39-5-5.

All persons or parties entering into contracts or agreements with an awarding authority for the construction of a public work shall be conclusively presumed to have notice of the provisions of this title.

Section 39-5-6.

The provisions of this title are mandatory, and shall be construed to require strict competitive bidding on contracts for public works. The courts shall not invoke or apply any principle of quantum meruit, estoppel, or any other legal or equitable principle which would allow recovery for work and labor done or materials furnished under any contract let in violation of competitive bidding requirements as prescribed by law.

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Title 40

Revenue and Taxation

Chapter 1 – General Provisions

Section 40-1-1.

For purposes of this title, and subject to additional definitions which are applicable to specific chapters or parts thereof, and unless the context otherwise requires, the following terms shall have the respective meanings ascribed by this section:

- (1) **BLIND PERSONS.** All persons who have a vision with adjusted glasses suitable to the eye or to the individual not greater than what is known as 20/200 vision.
- (2) **FORM.** This term shall be synonymous with the term "Return."
- (3) **INCOMPETENT VETERAN.** Any veteran who has been rated totally and permanently disabled by reason of insanity by the veterans' bureau and for whom a guardian has been appointed under the provisions of Sections 26-9-2 through 26-9-18.
- (4) **IMPROVEMENTS.** All buildings, structures, walls, fences, and any other things erected upon or affixed to the land.
- (5) **MERCHANT.** All persons, partnerships, trustees, receivers, corporations or other entities engaged in trading or dealing in any kind of goods, wares, or merchandise.
- (6) **MASCULINE GENDER.** All words importing the masculine gender shall also apply to females.
- (7) **MONEY.** Coins and paper currency of the United States of America used as a circulating medium of exchange.
- (8) **PERSON.** Any individual, association, estate, trust, partnership, corporation, or other entity of any kind.
- (9) **PERSONAL PROPERTY.** All things other than real property.
- (10) **PLURAL NUMBER.** All words in the plural number shall apply to single individuals in all cases in which the spirit and intent of this title require it.
- (11) **PRESENT TENSE.** All words importing the present tense shall also apply to the future.
- (12) **PROPERTY.** Real and personal property.
- (13) **REAL PROPERTY.** Land and all things thereunto pertaining, all structures, and all things annexed or attached thereto which would pass to a vendee by the conveyance of the land or property.
- (14) **RETURN.** Information submitted in a form allowed by the Department of Revenue for the reporting of tax liabilities or payments, and other reports required by the department. A tax return must identify the taxpayer as prescribed by regulation and must include other information required by the department.
- (15) **SIGNATURE.** A unique mark, process, or verification as allowed by regulation of the Department of Revenue identifying the natural person, natural persons or agent of a taxpayer or the person responsible for

the preparation of the tax return or other document. Nothing in this definition shall be construed to make a paid preparer responsible for the tax liability of the taxpayer as identified by the return through signature.

- (16) VALUE. The fair and reasonable market value of property, estimated at the price which the property would bring at a fair voluntary sale.

Chapter 4 – Tax Assessors

Section 40-4-8.

It shall be the duty of the county commissions of the several counties in this state to supply the tax assessor, tax collector, and such other tax officials or agents whose duty it is to assess and value property for taxation under this title with all necessary books, stationery, and printed blanks for the proper conduct of their several offices.

Chapter 6 – Assessment of Taxes Generally

Section 40-6-3

- (a) Every supernumerary official shall serve for life and shall receive from the county governing body, in equal monthly installments on the first of each month, or in such installments as other county officials or employees are paid, an annual salary as follows:
- (1) For 12 years service the official shall receive 60 percent of the average compensation during the last four years served as an official charged with assessing and collecting ad valorem taxes.
 - (2) For 14 years service the official shall receive 65 percent of the average compensation.
 - (3) For 16 years the official shall receive 70 percent of the average compensation.
 - (4) For 18 or more years the official shall receive 75 percent of the average compensation; provided, however, no person shall receive more than forty-nine thousand six hundred dollars (\$49,600) per year.

The county governing body may, by majority vote of the membership, elect to increase or remove this monetary limitation on compensation for any person who assumed supernumerary status after September 30, 1993.

The tax collector, if there is a supernumerary tax assessor or tax collector in the county, or the license commissioner or person charged with the collection of ad valorem taxes other than the tax collector, if there is a supernumerary license commissioner or other official charged with the assessing or collecting, or both, of ad valorem taxes in the county, shall from the first money collected by the official pay to the county governing body the sum which shall be paid to the supernumerary official as heretofore set forth. The sum shall be deducted on a pro rata millage basis from payments to the state, county, and all subdivisions and agencies thereof, except municipalities, to which the person collecting ad valorem taxes is charged with the distributing of ad valorem taxes collected under the law. Notwithstanding the foregoing, if the official dies without leaving a surviving spouse, or otherwise becomes disqualified as a supernumerary official, any money remaining in the fund shall be refunded to the person by whom it is paid to the county, and the person shall distribute the money refunded to the state, county, and other subdivisions and agencies on the same pro rata millage basis that it was originally withheld.

If any official covered under this chapter dies prior to attaining the age of 60 years, but being otherwise qualified to be appointed a supernumerary official, except for age, and is survived by a spouse lawfully married to the official at the time of his or her death, then the surviving spouse shall be paid a monthly allowance equal to 50 percent of the salary which would have been paid to the official had he or she

survived to the age of 60. The monthly allowance shall be paid in the same manner as provided for payment to a qualified official and shall continue for 15 years or until the marriage of the surviving spouse, whichever first occurs. Upon the death of any official covered under this chapter after he or she has become fully qualified for appointment as a supernumerary official, including age, whether appointed as a supernumerary official or whether still serving in active office, the surviving spouse of the official shall be paid a monthly allowance equal to 50 percent of the supernumerary salary being paid to the official or to which he or she would be entitled if appointed as supernumerary. The monthly allowance shall be paid in the same manner as provided for the official and shall continue for 15 years or until the marriage of the surviving spouse, whichever first occurs.

- (b) Beginning with the fiscal year commencing on October 1, 2006, the supernumerary officials of a county provided for in this section shall be entitled to receive the same cost-of-living increases in compensation, that are granted to county retirees by the county commission, if approved by a resolution of a majority of the county commission. The increases shall be in the same amount or percentage and at the same time, as the case may be, as that amount or percentage increase provided to the other retirees of the county and, if not uniform, the increase shall be equal to the average increase granted to all county retirees who receive an increase.

Chapter 6A – Tax Officials Compensation

Section 40-6A-5.

The governing bodies of each of the counties of this state shall provide the tax assessor, tax collector, revenue commissioner, license commissioner or such other official charged with assessing and collecting ad valorem taxes with such office personnel, clerks, and deputies, and such quarters, books, stationery, furniture, equipment, and other such conveniences and supplies as may be necessary for the proper and efficient conduct of such offices. The compensation of any personnel so provided shall be fixed by said governing body and shall be paid in equal installments out of the general fund of the county. Notwithstanding the Alabama Ethics Act, any employees working in such offices prior to the passage of such act may be continued as employees in such offices by the county governing body. All employees in such offices in counties which operate a merit system for county employees shall automatically become participants in such system.

Chapter 7 – Assessment of Taxes Generally

Section 40-7-15.

Except as otherwise provided by law, for the purpose of assessment, real and personal property shall be appraised at its fair and reasonable market value, according to the best judgment the assessor, the board of equalization, and agents of the Department of Revenue can form upon information, inspection, or otherwise, taking into consideration all elements or factors bearing on such value as heretofore or hereafter authorized; mineral, coal, oil, gas, timber, and turpentine interests, when they have been severed in ownership from the soil, by sale or otherwise, shall be separately appraised and assessed. Notwithstanding the above, all property under lease as of October 1, 1978, which lease does not provide for a direct passthrough of property taxes to the lessee, shall be appraised solely on the basis of the economic net return to the owner.

Section 40-7-25.

Except as otherwise provided by law, the assessing official shall, from information entered on the tax return list and from all other information known to him or her, or which he or she may procure, proceed to ascertain what, in his or her best judgment, is a fair and reasonable market value of each item of property returned by or listed to any taxpayer; provided, that the assessed value of any real estate or improvements as fixed for taxation for the year next preceding the then current tax year shall be prima facie the basis of the value of the property for assessment for the

current tax year, and the property shall not be assessed for taxation at a less valuation unless, upon evidence submitted to the county board of equalization, as provided for herein, it is found that the assessed valuation of the property reviewed should be reduced. The assessing official shall in separate columns enter on the list the amount and value and the deduction for exemption to which the taxpayer is entitled. The assessing official shall also add to the list any item of property subject to taxation owned by the taxpayer, or in which he or she has any interest whatever and which he or she had failed or omitted to place on the list; and the taxpayer shall be given notice by the assessing official, by mail or in person, of the items of property added to his or her assessment list or items claimed as exempt which are disallowed by the assessing official after the list has been filed and before the assessing official has completed his or her assessment, and the assessing official shall, upon demand, furnish the taxpayer with a certified copy of his or her assessment list so amended. In the event the value of real or personal property of any taxpayer is increased by the county board of equalization, herein created, over the assessed value thereof for the next preceding year, the taxpayer shall be furnished by mail or in person, by the secretary of the county board of equalization, with a statement showing separately the value of his or her personal property and his or her real property, and improvements thereon. The statement shall be signed by the chair of the county board of equalization and the taxpayer may file in writing, with the secretary of the county board of equalization, within 30 calendar days of the date of the statement, objections to any assessed valuation fixed as herein provided. Failure to give or receive the notices required in this section shall not invalidate the assessment. The taxpayer shall have the right any time before the taxes become delinquent to appear before the county board of equalization and have the assessment of his or her property reopened, if satisfactory proof is made that the taxpayer or his or her agent did not receive notice of the increase. The expense of postage incurred in carrying out the provisions of this section shall be paid in equal proportions by the county and state, upon a certified statement thereof by the secretary of the county board of equalization, filed with the court of county commissioners, or the board or court of like jurisdiction and with the Department of Finance.

Section 40-7-25.1.

- (a) For ad valorem tax years beginning on and after October 1, 1978, with respect to taxable property defined in Section 40-8-1, as amended, as Class III property and upon request by the owner of such property as hereinafter provided, the assessor shall base his appraisal of the value of such property on its current use on October 1 in any taxable year and not on its fair and reasonable market value. Failure of an owner of Class III property to request appraisal at current use value shall mean that the property shall be valued on its fair and reasonable market value as otherwise provided in this title until such time as the owner thereof shall request valuation on the basis of current use value. As used in this chapter, "current use value" shall be deemed to be the value of eligible taxable property based on the use being made of that property on October 1 of any taxable year; provided, that no consideration shall be taken of the prospective value such property might have if it were put to some other possible use. It is not the intent of the Legislature to establish in this section any presumption as to the fair and reasonable market value of any property, or any minimum such value. This section shall govern only determination of the current use value of eligible property with respect to which a timely request for appraisal at current use value shall have been made.
- (b) In determining the current use value, on and after October 1, 1981, of eligible taxable property the owner of which shall elect current use valuation of such property hereunder, the assessor shall utilize the standard value method of current use valuation outlined herein. (No new application form need be filed under Section 40-7-25.2 in order for this method to be utilized with respect to property the owner of which, prior to October 1, 1981, shall have elected to have had assessed at the ratio of its assessed value to its current use value, and which property was in fact so assessed; however, the tax assessor of the county in which the property is located may request of the owner such additional information as may be required to compute current use value hereunder.) To utilize the standard value method of current use valuation, the tax assessor shall first determine the character of the property with respect to which current use valuation is elected as agricultural (which characterization shall cover all of the types of real property described in subdivision (3) of subsection (b) of Section 40-8-1 with the exception of real property used for the growing and sale of timber and forest products), forest (meaning real property used for the growing and sale of timber and forest products), residential (as defined in subdivision (2) of subsection (b) of Section 40-8-1, or historic building and site (as defined in subdivision (6) of subsection (b) of Section 40-8-1). With respect to Class III property consisting of parcels of five acres or less, the owners of which shall have elected current use valuation respecting those

parcels, the tax assessor may require the submission of additional data as may be necessary to establish that the use being made of the parcels of property in question is agricultural, forest, or residential or historic building and site, as the case may be; such data may include site management plans from the Alabama Forestry Commission, photographs and surveys, or verification of use from the county farm agent or the U.S. Soil Conservation Service.

- (c) With respect to agricultural and forest property, the tax assessor shall determine, utilizing the soil groups defined herein, the productivity rating or ratings applicable to such property based on the following schedule:

Soil Group	Agricultural Productivity Rating	Forest Productivity Rating
1	Good	Good
2	Good	Good
3	Average	Average
4	Average	Average
5	Average	Average
6	Poor	Average
7	Nonproductive	Poor
8	Good	Good
9	Poor	Average
10	Nonproductive	Nonproductive

The soil groups of agricultural and forest property shall be determined using the following general definitions (to fall within a particular soil group property need not exhibit all the general characteristics described herein for that group, but must generally be describable by a preponderance of those characteristics; the Department of Revenue prior to issuing any regulations further defining soil groups hereunder shall consult with the U.S. Soil Conservation Service and the Alabama Cooperative Extension Service):

- (1) **SOIL GROUP #1.** Nearly level soils on uplands; mostly deep and well drained (zero to two percent slopes). Soils in this group have no limitations that significantly restrict their use for agriculture. They are well suited to a wide range of plants and may be used for cultivated crops, small grains, hay crops, pasture, or woodland. They have moderate to high available water capacity and are responsive to fertilization.
- (2) **SOIL GROUP #2.** Nearly level soils on uplands; mostly deep, imperfectly drained (zero to two percent slopes). Soils in this group have a wetness limitation that restricts their use for agriculture. The choice of plants may be restricted on some soils but as a group they are suited for cultivated crops, small grains, hay crops, pasture, or woodland. The wetness limitation can be partially overcome by drainage. The soils have high available water capacity and are responsive to fertilization.
- (3) **SOIL GROUP #3.** Nearly level soils on uplands; mostly deep, well drained with thick sandy surface layers (zero to five percent slopes). Soils in this group have a low available water capacity that restricts their use for agriculture. The choice of plants is restricted and the soils require special considerations when used for cultivated crops and small grains. Most soils in this group are well suited for hay crops, pasture, and woodland. Special practices must be used to prevent deterioration of soils and to maintain yields if used for cultivated crops. Most soils in this group have low fertility levels that are not easily corrected by fertilization.

- (4) SOIL GROUP #4. Gently sloping to sloping soils on uplands (two to six percent slopes). Soils in this group have moderate limitations that restrict their use for agriculture. The choice of plants may be restricted on some soils but as a group they are well suited for cultivated crops, small grains, hay crops, pasture, or woodland. Limitations can be overcome by conventional practices but the soils require careful management to prevent deterioration and maintain maximum crop yields. Limitations include one or more of the following: slopes of about two to six percent, a somewhat restricted rooting zone, very slow permeability of the subsoil, and low available water capacity. Most soils in this group are responsive to fertilization.
 - (5) SOIL GROUP #5. Sloping to strongly sloping soils on uplands (six to 10 percent slopes). Soils in this group have severe limitations that restrict their use for agriculture. The choice of plants is restricted and the soils require special considerations when used for cultivated crops and small grains. Most soils in this group are well suited for hay crops, pasture, and woodland. Special practices must be used to prevent deterioration of the soils and to maintain yields if used for cultivated crops. Limitations include one or more of the following: slopes of about six to 10 percent, very slow permeability of the subsoil, shallow rooting zone, and low available water capacity. Some sandy soils in this group have low fertility levels that are not easily corrected by fertilization.
 - (6) SOIL GROUP #6. Moderately steep soils on uplands (10 to 15 percent slopes). Soils in this group have very severe limitations that restrict their use for agriculture. The choice of plants is restricted and very careful management is required to prevent soil deterioration, protect crops, and to maintain crop yields. Soils in this group are generally poorly suited for row crops and small grains. They are suited to pasture and woodland but steep slopes restrict their use for hay crops. Limitations include one or more of the following: slopes of about 10 to 15 percent, shallow rooting depth, low available water capacity, and surface stoniness that interferes with tillage. Some sandy soils in this group have low fertility levels that are not easily corrected by fertilization.
 - (7) SOIL GROUP #7. Steep soils on uplands (15+ percent slopes). Soils in this group have very severe limitations that make them unsuited for cultivated crops, small grains, or hay crops. They are suited for pasture only to a limited extent and are used mainly for woodland. Limitations include one or more of the following: slopes greater than 15 percent, shallow rooting depth, low available water capacity, and surface stoniness that seriously interferes with or prohibits tillage.
 - (8) SOIL GROUP #8. Bottomland soils that are well suited for cultivated crops, hay crops, and pasture. Subject to occasional water overflow with only slight damage to crops. Soil wetness is normally correctable by surface drainage. Soils in this group are well suited for woodland.
 - (9) SOIL GROUP #9. Bottomland soils subject to frequent overflow with severe crop damage. Excessive wetness that persists after drainage restricts the use of these soils to mainly pasture and woodland. Woodland growth potential is excellent but equipment limitations and seedling mortality limit intensive forest management.
 - (10) SOIL GROUP #10. Soils in this group have such severe limitations that they are capable of only limited production of vegetative growth. It includes soils that are normally covered with water, soils that are saline, soils that are severely gullied, and have extensive rock outcrops.
- (d) The tax assessor shall then use, on and after October 1, 1981, the following formulas and methods to determine the assessed value of each type of Class III property, with respect to which a current use valuation election has been made:
- (1) AGRICULTURAL PROPERTY. The current use standard value for agricultural property in the state shall be determined in the following manner. The owner of agricultural property desiring to elect current use valuation shall submit to the assessor satisfactory evidence indicating the soil group or groups, as defined herein, applicable to the property in question. Such evidence may, with respect to property located in counties for which countywide soil survey maps are not available from the U.S. Soil Conservation Service, include a soil survey map describing the soils of the property in question

prepared by the U.S. Soil Conservation Service or other governmental or private soil mapping agency. The Department of Revenue, utilizing statistics from the Alabama Crop and Livestock Reporting Service, the Alabama Cooperative Extension Service and the Alabama Agricultural Experiment Station, shall determine annually not later than November 15 (except that, for the tax year beginning October 1, 1981, the determination shall be made 30 days after April 20, 1982), for use in assessing property for taxation as of the immediately preceding October 1, the current use standard value for agricultural property as follows:

- a. The state's top three crops in terms of acreage harvested (not including hay of all types) for the most recent calendar year for which statistics are available shall be determined;
- b. Total crop production in the state of the three crops shall be multiplied by the seasonal average price received for these crops in each of the 10 most recent calendar years since 1973 for which statistics are available, and divided by the acreage harvested for each crop for each year, giving the gross return per year per crop (provided, that if corn is determined to be one of the three crops for which such calculation is made, the same formula shall be followed, but utilizing southeastern United States statistics in determining average yields per acre);
- c. From the gross return figures thus obtained, costs of production for each crop (determined for each crop using U.S. Department of Agriculture cost of production data [excluding land costs and general farm overhead costs] or such similar data as may be available to the department) shall be subtracted, giving the net return to land per year per crop;
- d. The net return per year to land per crop shall be totalled, the total being weighted to give effect to the average number of acres of each crop being harvested in the state in the 10 most recent calendar years since 1973 for which statistics are available, such total yielding income flow per acre; and
- e. Income flow per acre shall be capitalized by dividing it by the average of the annual effective interest rates on new federal land bank loans (determined in the same manner as the effective interest rates utilized under Section 2032A(e)(7)(A)(ii) of the Internal Revenue Code of 1954, as presently determined pursuant to regulation Section 20.2032A-4(e) issued by the U.S. Department of the Treasury) charged by the New Orleans District Federal Land Bank for the 10 most recent calendar years since 1973 for which figures are available as of October 1 of each tax year, such rate to be reduced by four and one-half percent for determinations made for the first tax year to which the provisions of this chapter shall apply; with respect to tax years thereafter, the income flow per acre shall be divided by the average of said annual effective interest rates determined for the 10 most recent calendar years since 1973 for which figures are available, such rate to be reduced by the lesser of four and one-half percent or the difference between such rate and two percent.

The figure obtained using this formula, increased by 20 percent with respect to property having a productivity rating of good, decreased by 30 percent with respect to property having a productivity rating of poor, and by 75 percent with respect to property having productivity rating of nonproductive, and unchanged with respect to property having a productivity rating of average, shall be the current use standard values per acre of property in agricultural use in the state with respect to which current use valuation is elected by the owner thereof; provided, however, that such current use standard values per acre as computed hereunder shall, for the first tax year for which values are computed pursuant to the standard value method provided herein, be computed without utilizing any statistics or interest rates available for the calendar year 1981, and all calculations hereunder for the tax year beginning October 1, 1981, shall be made as if such 1981 statistics and interest rates were not available; and provided further that for each tax year following the first tax year for which values are computed pursuant to the standard value method provided herein, with respect to property of each productivity rating, the current use standard values per acre shall be adjusted so that such standard values shall not be less than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder, and

shall not be more than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder plus, with respect to each such value, amounts equal to three percent of such values multiplied by the number of tax years elapsed since the tax year beginning October 1, 1981. Utilizing the department's determination of standard values, the tax assessor shall enter the standard value or values per acre determined hereunder, multiplied by the number of acres of agricultural property of each productivity rating included in the property with respect to which a current use valuation election is in effect, on his records and proceed to assess the property at that value for ad valorem tax purposes utilizing the assessment ratio or ratios then applicable to Class III property. In making the annual determination provided for in this subparagraph (1), the statistics utilized by the Department of Revenue shall be (except as otherwise provided herein) those most current statistics available to the department (including preliminary statistics) at the time such determinations are made as required herein; the determinations so made by the department shall not be subject to change solely because such statistics are later revised, corrected, or otherwise altered by the Alabama Crop and Livestock Reporting Service, the Alabama Cooperative Extension Service, the Alabama Agricultural Experiment Station, the U.S. Department of Agriculture or the New Orleans District Federal Land Bank.

- (2) **FOREST PROPERTY.** The current use standard value for forest property in the state shall be determined in the following manner. The owner of timberland desiring to elect current use valuation shall submit to the assessor satisfactory evidence indicating the soil group or groups, as defined herein, applicable to the property in question. Such evidence may, with respect to property located in counties for which county-wide soil survey maps are not available from the U.S. Soil Conservation Service, include a soil survey map describing the soils of the property in question prepared by the U.S. Soil Conservation Service or other governmental or private soil mapping agency. For each calendar year immediately preceding October 1 in each year the Alabama Forestry Commission shall determine the average pulpwood price per cord received by timber growers in the state by estimating the average pine pulpwood price per cord and the average hardwood pulpwood price per cord received in the state during such year and determining the weighted average of those two average prices, weighting those prices on the basis of the ratio that the approximate number of cords of each of those two types of pulpwood harvested in Alabama bears to the total cords of both of such types of pulpwood harvested in Alabama, and provide that information to the Department of Revenue. The Department of Revenue shall utilize timber yields of 1.38 cords per acre per year, 1.05 cords per acre per year, .75 cords per acre per year and .6 cords per acre per year for land having good, average, poor, and nonproductive productivity ratings respectively to establish annual yields per acre in cords and multiply the yield per acre of timber property of each rating by the average pulpwood price per cord as provided by the Alabama Forestry Commission. From the products thus obtained, 15 percent thereof shall be subtracted therefrom for expenses of ownership and management, and the result of that subtraction shall equal imputed timberland net income per acre for property of each productivity rating. The imputed net income per acre figures for property of each productivity rating shall then be divided by the average of the annual effective interest rates charged on new federal land bank loans (determined as in subsection (d)(1)e. of this section) by the New Orleans District Federal Land Bank for the 10 most recent calendar years since 1973 for which figures are available as of October 1 of each tax year, such rate to be reduced by four and one-half percent for determinations made for the first tax year to which the provisions of this act shall apply; with respect to tax years thereafter, the imputed net income per acre figures shall be divided by the average of said annual effective interest rates for the 10 most recent calendar years since 1973 for which figures are available, such rate to be reduced by the lesser of four and one-half percent or the difference between such rate and two percent. The results thus obtained shall be the current use standard values per acre for property of each of the timber productivity ratings with respect to which current use valuation is elected by the owner thereof; provided, however, that for each tax year following the first tax year for which values are computed hereunder, with respect to property of each productivity rating, the current use standard values per acre shall (a) be adjusted so that such standard values shall not be less than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder, and (b) not be more than 100 percent of such standard values as computed for the first tax year for which values are computed hereunder plus, with respect to each such value, amounts equal to three percent of such values multiplied by the number of tax years elapsed since the tax year

beginning October 1, 1981. Utilizing the department's determination of standard values, the tax assessor shall enter such standard values per acre, multiplied by the number of acres of forest property of each productivity rating with respect to which a current use valuation election is in effect, on his records and proceed to assess the property at that value for ad valorem tax purposes utilizing the assessment ratio or ratios then applicable to Class III property. In making the annual determinations provided for in this subparagraph (2), the statistics utilized by the Alabama Forestry Commission and the Department of Revenue shall be (except as otherwise provided herein) those most current statistics available to the commission and the department (including preliminary statistics) at the time such determinations are made as required herein; the determinations so made by the commission and the department shall not be subject to change solely because such statistics are later revised, corrected, or otherwise altered by the sources thereof, including the commission and the New Orleans District Federal Land Bank.

- (3) **RESIDENTIAL PROPERTY AND HISTORIC BUILDINGS AND SITES.** The current use standard values for individual parcels of residential property and historic buildings and sites in each county in the state shall be determined by each county tax assessor annually utilizing comparative fair and reasonable market values of comparable residential or historic building and site property located in the county, which property cannot ordinarily be used other than as residential property or as an historic building or site, the tax assessor to presume that there is no possibility of the property being used for any other purpose than as residential property or an historic building and site, as if there were a legal prohibition against its use for any other purpose. The Department of Revenue shall promulgate appropriate regulations and orders for use by tax assessors in determining such comparable values. The tax assessor shall enter the standard values so determined on his records concerning property with respect to which a current use valuation election is in effect and proceed to assess the property at that value for ad valorem tax purposes utilizing the assessment ratio or ratios then applicable to Class III property.
- (e) Following notice to the owners of Class III property who shall request appraisal of such property at its current use value of the current use values thereof computed using the current use standard values provided for herein, those owners may, within thirty days after receipt of such notice, submit to the assessor a statement outlining any errors asserted by the owner to have been made in such appraisal. The assessor shall review such statement and determine whether the value contained in the appraisal as submitted satisfactorily represents the current use value of the property with respect to which it is submitted, and he shall promptly forward the statement to the county board of equalization with his written determination and recommendation with respect thereto, for use by the board in carrying out its duties under Section 40-3-16 and hearing any properly filed objection to the current use valuation of any parcel of property computed using the standard current use value formulas provided in this section. Such objections shall be filed and heard, and final determinations of the board respecting such objections and assessments based on current use value appealed from, in the same manner as that provided in Section 40-3-19 regarding assessments, and objections filed with respect thereto, based on fair and reasonable market value.

Section 40-7-25.2.

- (a) Any owner of eligible taxable property described in Section 40-7-25.1 may apply to have such property assessed for purposes of ad valorem taxation at the appropriate ratio of assessed value to the current use value of such property by filing a written application, in form as prescribed by the Department of Revenue, with the tax assessor of the county in which such property is located, on and after October 1 but not later than January 1 in any taxable year; provided, however, that with respect to assessments of eligible taxable property respecting the taxable year that began on October 1, 1981, such applications may be filed with the tax assessor not later than June 30, 1982.
- (b) The application form for qualification of real property as agricultural property shall set forth a description of the real property, a general description of the use to which it is being put and such other information as the tax assessor may require to aid him or her in determining whether the real property qualifies for assessment based on its current use value.

- (c) The application form for qualification of real property as forest property shall include a description of the real property, a general description of the uses to which it is being put, aerial photographs, if available, and such other information as the tax assessor may require to aid him in determining whether the land qualifies for assessment based on its current use value.
- (d) Any person aggrieved by the denial of any application for the qualification of eligible taxable property for assessment based on its current use value shall have the same rights and remedies for appeal and relief as are provided by law for taxpayers claiming to be aggrieved by the actions of tax assessors or boards of equalization.
- (e) If any application for assessment of any taxable property based on its current use value is granted by the tax assessor, the owner of such property shall not be required to repeat the application for subsequent taxable years. Following the sale or other disposition of such property, the new owner thereof shall be notified in writing by the tax assessor or revenue commissioner, as the case may be, that the new owner is required to make application for current use valuation of the property and the new owner may then apply for current use valuation for such property as provided in this section; otherwise, such property shall be assessed at its fair and reasonable market value. In the assessment book described in Section 40-7-33, the tax assessor shall show, in addition to the other information specified therein, that the owner of the taxable property eligible for current use valuation under this section has applied for and been granted current use valuation of that property for purposes of assessment.

Section 40-7-25.3.

If the sale or other disposition of taxable property qualified for assessment based on its current use value results in or is followed by the conversion of such property, within two years from the date of sale or other disposition, to a use that is not so qualified, then with respect to such property, there shall be levied and collected, in the ad valorem tax year beginning on the October 1 next succeeding the conversion of such property, an amount of additional taxes to be computed in the manner provided by this section. If taxable property qualified for assessment at its current use value is converted to a use not so qualified, then the tax assessor shall thereupon appraise such property in accordance with the provisions of Section 40-7-15 and Section 40-7-25, as amended, and shall compute the amount of additional taxes payable with respect to such property in the manner provided in this section. The owner of taxable property qualified for assessment at its current use value which is converted to a use not so qualified shall so notify the tax assessor of the county in which such property is located, on and after October 1 but not later than January 1 in the taxable year next succeeding the taxable year in which such conversion is made. The tax assessor shall compute the amount of ad valorem property taxes that would have been payable with respect to such converted property if the sales price or the fair and reasonable market value of such property at the time of its conversion, whichever is greater, had been used instead of the current use value of such property in computing the amount of taxes payable with respect to such property for each of the three ad valorem tax years preceding the tax year beginning on the October 1 next succeeding the conversion of such property. Such amount shall be additional taxes to be levied and collected on the first assessment lists prepared subsequent to such conversion in the same manner and at the same time as other taxes and shall constitute a lien on such property to the same extent as other taxes, as provided in Section 40-1-3. If such converted property constitutes only a portion of a parcel so qualified on the assessment lists, the tax assessor shall apportion the assessment of such parcel on the first assessment lists prepared subsequent to the conversion and enter the apportioned amount attributable to the portion converted as a separately assessed parcel on the assessment lists. Such apportionment shall be made for each of the years to which additional taxes apply.

Section 40-7-42.

The county commission, at the first regular meeting in February in each year, shall levy the amount of general taxes required for the expenses of the county for the current year, not to exceed one half of one percent of the value of the taxable property as assessed for revenue for the state as shown by the book of assessments after it shall have been corrected, at the same time levying the amount of special taxes required for the county for the current year, which

levy shall be made upon the same basis of valuation provided above and, when such levy shall be made, shall certify the rate or rates of taxation and the purpose or purposes for which the tax is levied to the tax assessor of the county.

Chapter 8 – Rate of Taxation

Section 40-8-1.

- (a) On and after October 1, 1978, with respect to ad valorem taxes levied by the state, and, unless otherwise provided, with respect to ad valorem taxes levied by a county, municipality, or other taxing authority other than the state, all taxable property shall be divided into the following classes and no other and shall be assessed for ad valorem tax purposes at the following ratios of assessed value to the fair and reasonable market value of such property, or, as may be provided by law, to the current use value of such property:

CLASS I. All property of utilities used in the business of such utilities, 30 percent.

CLASS II. All property not otherwise classified, 20 percent.

CLASS III. All agricultural, forest, and residential property, and historic buildings and sites, 10 percent.

CLASS IV. All private passenger automobiles and motor trucks of the type commonly known as “pickups” or “pickup trucks” owned and operated by an individual for personal or private use and not for hire, rent, or compensation, 15 percent.

- (b) As used herein, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:
- (1) **AGRICULTURAL AND FOREST PROPERTY.** All real property used for raising, harvesting, and selling crops or for the feeding, breeding, management, raising, sale of, or the production of livestock, including beef cattle, sheep, swine, horses, ponies, mules, poultry, fur-bearing animals, honeybees, and fish, or for dairying and the sale of dairy products, or for the growing and sale of timber and forest products, or any other agricultural or horticultural use or animal husbandry and any combination thereof.
 - (2) **HISTORIC BUILDINGS AND SITES.** Regardless of the use to which such property is put, all buildings or structures (i) determined eligible by the state historic preservation officer for listing on the National Register of Historic Places; or (ii) located in a registered historic district and certified by the United States Secretary of the Interior as being of historic significance to the district.
 - (3) **PRIVATE PASSENGER AUTOMOBILES AND MOTOR TRUCKS OF THE TYPE COMMONLY KNOWN AS “PICKUPS” OR “PICKUP TRUCKS” OWNED AND OPERATED BY AN INDIVIDUAL FOR PERSONAL OR PRIVATE USE AND NOT FOR HIRE, RENT, OR COMPENSATION.** All private passenger automobiles, as that term is defined in Sections 40-12-240, subdivision (12), and 40-12-241; and all motor trucks of the type commonly known as “pickups” or “pickup trucks,” weighing not exceeding 8,000 pounds gross weight.
 - (4) **PROPERTY NOT OTHERWISE CLASSIFIED.** All real and personal property which does not fall within any one or more of Classes I, III, and IV.
 - (5) **PROPERTY OF UTILITIES.** All property assessed for taxation by the Department of Revenue pursuant to the provisions of Chapter 21 of this title; provided, that after September 30, 1979, and only to the extent required by Title III, §306 of Pub. L. 94-210 (the Railroad Revitalization and Regulatory Reform Act of 1976, codified as 49 U.S.C. §26c), “transportation property,” as that term is defined in the aforesaid statute, as heretofore or hereafter amended, or in any subsequent statute of similar import,

shall not be assessed as Class I property and customer-owned coin-operated telephone companies shall not be assessed as Class I property.

- (6) **RESIDENTIAL PROPERTY.** Only real property, used by the owner thereof exclusively as the owner's single-family dwelling.
- (c) Wherever any statute provides for, limits, or measures the power or authority of any county, municipality, or other taxing authority to levy taxes, borrow money, or incur indebtedness in relation to the assessment of property therein for state taxes or for state and county taxes, such provision shall mean as assessed for county or municipal taxes.
- (d) The following property shall be exempted from ad valorem taxation: The real and personal property of the state, counties, and municipalities and real and personal property devoted exclusively to religious, education, or charitable purposes. The property of Masonic lodges, Knights of Columbus homes, and union halls shall be exempt when used exclusively for the purposes and business of such organizations. All property now exempt by law shall continue to be exempt from taxation until changed by law.
- (e) The Department of Revenue shall have authority to promulgate rules and regulations for the uniform identification and assessment of manufactured homes.

Section 40-8-2.

The rate of taxation for state purposes shall be sixty-five one-hundredths of one percent per annum on the assessed value of the taxable property within this state.

Section 40-8-3.

There is hereby levied for the purpose and upon the property hereinafter named and not specifically exempted from taxation annual taxes, as follows:

- (1) For the maintenance of the public schools of this state, \$.30 on each \$100 of the assessed value of taxable property.
- (2) For the relief of needy Confederate soldiers and sailors, resident citizens of Alabama and their widows, \$.10 on each \$100 of the assessed value of taxable property of which one percent of the gross amount collected will be expended by the Alabama Historical Commission to provide for capital improvements and maintenance at the Confederate Memorial Park at Mountain Creek, Chilton County, Alabama.
- (3) For the use of the state and to raise revenue therefore, \$.25 on each \$100 of the assessed value of taxable property.

Section 40-8-4.

- (a) During the ad valorem tax year beginning October 1, 1978, with respect to any ad valorem tax levied by a county, municipality, or other taxing authority other than the state, the governing body of any such county, municipality, or other taxing authority may at any time, effective for ad valorem tax years beginning on and after October 1, 1978, increase or decrease the ratio of assessed value to the fair and reasonable market value or, as may otherwise be provided by law, to the current use value, as the case may be (herein called "the assessment ratio"), of any class of taxable property within the limits prescribed in the Constitution; provided, that the county, municipality, or other taxing authority meets the criteria contained in this section. If the receipts from any ad valorem tax with respect to which any assessment ratio has been so adjusted by any taxing authority during the ad valorem tax year beginning October 1, 1978, exceed by more than five percent,

or are less than 95 percent of, the receipts from such ad valorem tax for the ad valorem tax year beginning October 1, 1977, then for the ad valorem tax years beginning on and after October 1, 1979, the taxing authority may adjust any assessment ratio with respect to such ad valorem tax in the manner provided for adjustments made during the ad valorem tax year beginning October 1, 1978. On and after October 1, 1979, the governing body of any county, municipality, or other taxing authority may at any time increase or decrease the assessment ratio applicable to any class of taxable property; provided, that any proposed adjustment to an assessment ratio to be made pursuant to this sentence, whether an increase or a decrease, shall have been (1) proposed by the governing body of the taxing authority after a public hearing on such proposal, (2) thereafter approved by an act of the Legislature and (3) subsequently approved by a majority vote of the qualified electors residing in the taxing authority who vote on the proposal at a special election called and held in accordance with the law governing special elections; and provided further, that the county, municipality, or other taxing authority meets the criteria contained in this section.

- (b) In determining whether any assessment ratio applicable to any class of taxable property may be increased or decreased by any such county, municipality, or other taxing authority pursuant to this section, the following criteria shall be applied:
- (1) If, on any October 1, the total assessed value of all property classified in any one class of taxable property located in the county, municipality, or other taxing authority constitutes more than 50 percent of the assessed valuation of all taxable property in the county, municipality, or other taxing authority, the assessment ratio with respect to that class of taxable property may be decreased up to a maximum of five percent differential from the rates set forth in subsection (a) of Section 40-8-1, as amended.
 - (2) If, on any October 1, the total assessed value of all properties classified in any one class of taxable property located in the county, municipality, or other taxing authority constitutes less than 20 percent of the assessed valuation of all taxable property in the county, municipality, or other taxing authority, the assessment ratio with respect to that class of taxable property may be increased up to a maximum of five percent differential from the rates set forth in subsection (a) of Section 40-8-1, as amended.
 - (3) If, on any October 1, the total assessed value of all properties classified in any one class of taxable property located in the county, municipality, or other taxing authority constitutes more than 75 percent of the assessed valuation of all taxable property in the county, municipality, or other taxing authority, the assessment ratio with respect to that class of taxable property may be decreased up to a maximum of five percent differential, and each assessment ratio of properties classified in any class of taxable property other than the aforementioned class of taxable property may be increased up to a maximum of five percent differential, from the rates set forth in subsection (a) of Section 40-8-1, as amended.
- (c) Any action authorized by this section to be taken by a taxing authority or the governing body thereof shall, if there is no such governing body, be taken by resolution of the governing body of the county in which such taxing authority is located acting on behalf of such taxing authority.

Section 40-8-5.

Each taxpayer who was assessed and who paid a higher amount of state, county, or municipal ad valorem tax as a result of the completion of a countywide property reappraisal, and the implementation of the newly appraised property values as the tax base in that county, between October 1, 1975, and November 7, 1978, shall be entitled to a credit against his tax liability arising under the same tax or taxes, in the amount of the increase which resulted from said reappraisal, to be used during such tax year or years as the taxpayer elects until the credit is exhausted.

Chapter 9 – Exemptions from Taxation and Licenses

Section 40-9-1.

The following property and persons shall be exempt from ad valorem taxation and none other:

- (1) All bonds of the United States and this state and all county and municipal bonds issued by counties and municipalities in this state, all property, real and personal, of the United States and this state and of county and municipal corporations in this state; all cemeteries, all property, real and personal, used exclusively for religious worship, for schools or for purposes purely charitable; provided, that property, real or personal, owned by any educational, religious or charitable institution, society or corporation let for rent or hire or for use for business purposes shall not be exempt from taxation, notwithstanding that the income from such property shall be used exclusively for education, religious or charitable purposes; all mortgages, together with the notes, debts and credits secured thereby on real and personal property situated in this state, which mortgages have been filed for record and the privilege tax paid thereon; all security agreements and security interests under the Uniform Commercial Code, together with the notes, debts and credits secured thereby; all money on deposit in any bank or banking institution and all other solvent credits; all warrants issued by county boards of education and city boards of education for the purpose of erecting, repairing, furnishing school buildings or for other school purposes;
- (2) All property, real or personal, used exclusively for hospital purposes, to the amount of \$75,000, where such hospitals maintain wards for charity patients or give treatment to such patients; provided, that the treatment of charity patients constitutes at least 15 percent of the business of such hospitals; provided further, that such hospital need not be assessed for taxation if the owner or manager shall file with the county tax assessor wherein such hospital is located within the time allowed for assessing such property for taxation a certificate that such hospital has done 15 percent charity work in the preceding tax year; and further provided, that such hospital through its owner or manager shall have until the expiration of the preceding tax year to class its work and ascertain whether or not such hospital has done 15 percent of its treatment of patients as charity work;
- (3) The shares of the capital stock of any corporation owning and operating a hospital, to the extent of \$75,000 in value; provided, that said corporation maintains wards for charity patients and gives treatment to such patients, which treatment constitutes at least 15 percent of the business of the hospital of said corporation; provided, that the total exemption granted to any such corporation shall not exceed \$75,000, taking into consideration its real and personal property and the value of its shares of capital stock;
- (4) All property owned by the American Legion or by Veterans of Foreign Wars or by the Disabled American Veterans, or any post thereof; provided, that such property is used and occupied exclusively by said organization;
- (5) All the property of literary and scientific institutions and literary societies, when employed or used in the regular business of such institutions;
- (6) The libraries of ministers of the gospel, all libraries other than those of a professional character and all religious books kept for sale by ministers of the gospel and colporteurs;
- (7) The property of deaf mutes and insane persons to the extent of \$3,000 and the property of blind persons to the extent of \$12,000;
- (8) All family portraits;
- (9) All cotton, livestock or agricultural products which have been raised or grown in the State of Alabama and which shall remain in the hands of the producer thereof, or his landlord, or in the hands of a cooperative association for all time, and for a period of one year in the hands of the purchaser or the manufacturer;

- (10) All cotton, wherever grown, stored in licensed warehouses in the State of Alabama for a period not exceeding 12 months;
- (11) Provisions and supplies on hand for the current year for the use of the family and the making of crops; all wearing apparel; farming tools; tools and implements of mechanics to the value of \$200; all livestock, including mules, studs, jacks and jennets, cattle, horses, cows, calves, hogs, sheep and goats; household and kitchen furniture and one sewing machine;
- (12) No license or taxation of any character, except franchise taxes provided by Section 229 of the Constitution of the State of Alabama, shall be collected or required to be paid to the state or any county or municipality therein by any state or county fair, agricultural association, stock, kennel or poultry show. Athletic stadiums owned and controlled by universities, schools or colleges and which are used exclusively for the purpose of promoting intercollegiate or interschool athletics; provided, that the revenue received from athletic stadiums, when admission is charged, shall be used for the benefit of athletic associations of such universities, colleges or schools. Nothing contained in this subdivision shall be construed to prohibit any municipality, county or state from imposing any license tax upon or for the privilege of engaging in the business of supplying services for hire or reward or selling commodities other than livestock, farm products or farm implements or conducting or operating devices or games of skill or amusements or other games or devices, or conducting or operating shows, displays or exhibits other than shows, displays or exhibits of agricultural implements, farm products, livestock and athletic prowess;
- (13) All material, including without limitation coke, to be compounded or further manufactured, when stocked at any plant or furnace for manufacturing purposes in Alabama;
- (14) All articles manufactured in Alabama, including pig iron, in the hands of the producer or manufacturer thereof, for 12 months after its production or manufacture;
- (15) All property, both real and personal, owned by any unit or organization of the Alabama National Guard officially recognized as such by the federal government and organized and maintained by the state, and all property owned by shares and used exclusively by and kept exclusively in the possession of any such unit or organization of the Alabama National Guard, the annual rent or hire of which is not in excess of the annual state, county and municipal taxes on said property shall be exempt from taxation by the state, and the county and municipality in which the same may be situated;
- (16) All poultry;
- (17) The property of all incompetent veterans to the value of \$3,000;
- (18) The following items of personal property when owned by individuals for personal use in the home or usually kept at the home of the owner and not carried as stocks of merchandise, namely: libraries; phonographs; pianos and other musical instruments; paintings; precious stones, jewelry, plate silverware, ornaments and articles of taste; watches and clocks; wagons, buggies, bicycles, guns, pistols, canes, golf sticks, golf bags and sporting goods; money hoarded; radios; mechanical and electrical refrigerators; electrical appliances;
- (19) All property owned by the Benevolent and Protective Order of Elks, Fraternal Order of Police, Fraternal Order of Eagles or Loyal Order of Moose, or lodge thereof; provided, that such property is used and occupied exclusively by such organization;
- (20) All devices, facilities or structures, and all identifiable components thereof or materials for use therein, acquired or constructed primarily for the control, reduction or elimination of air or water pollution;
- (21) Tobacco leaf stored in hogsheads;

- (22) All farm tractors, as that term is defined in subdivision (19) of Section 32-1-1.1; and all farming implements, as that term is used in subdivision (b)(5) of Section 40-11-1, as amended, when used exclusively in connection with agricultural property as defined in subdivision (b)(3) of Section 40-8-1, as amended;
- (23) All stocks of goods, wares and merchandise described in subdivision (b)(4) of Section 40-11-1, as amended; and
- (24) All aircraft, replacement parts, components, systems, supplies and sundries affixed or used on said aircraft, and ground support equipment and vehicles used by or for the aircraft, when used by a certificated or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate or foreign commerce for transporting people or property by air. For the purpose of this subdivision, the words "hub operation within this state" shall be construed to have all of the following criteria:
 - a. There originates from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year; and
 - b. Passengers and/or property are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.
- (25) All property described in Title 12 U.S.C. §1701(Q), commonly known as HUD 202 property, is hereby exempt from any and all ad valorem taxes.
- (26) All vessels and equipment thereon, used predominantly in the business of commercial shrimping by the owners thereof.

Section 40-9-2.

Any person who is entitled to a homestead exemption under the provisions of Section 84 of Title 51 of the 1940 Code of Alabama, as amended, and who is also entitled to an exemption of household and kitchen furniture under the provisions of subdivision (11) of Section 40-9-1, shall not be required to claim annually the said personal property exemption. Any such person is authorized to make a claim of said personal property prior to January 1 of any tax year; and if said claim is granted by the tax assessor, it shall be unnecessary to repeat the claim for subsequent tax years so long as such person is entitled to an exemption of such household and kitchen furniture; provided, that such claimed exemption shall not inure to the benefit of the grantee or successor of such person. It is the intent that the grantee or successor is required to make his own claim for such personal property exemption. In the event that any said household and kitchen furniture that has been previously claimed and allowed as exempt shall be or become for any tax year no longer exempt, the person required to pay the tax thereon shall notify the tax assessor prior to January 1 of the tax year in which such property becomes subject to tax of the fact that such property is no longer exempt; and the tax assessor shall thereupon list such property for taxation.

Any household and kitchen furniture that is legally claimed and allowed as exempt under this section or which shall become subject to tax after having been legally claimed and allowed as exempt or which is subject to taxation may be assessed as an escape for a period not exceeding five years and, in addition to all other penalties, fees, charges, taxes and interest allowed by law, shall bear a penalty of 15 percent of the taxes due.

The applicability of the provisions of this section shall be limited to persons who are entitled to a homestead exemption under said Section 84 of Title 51 of the 1940 Code of Alabama, as amended, and who are, in addition to said homestead exemption, entitled to an exemption of household and kitchen furniture under the provisions of subdivision (11) of Section 40-9-1.

Section 40-9-19.

- (a) Homesteads, as defined by the Constitution and laws of Alabama, are hereby exempted from all state ad valorem taxes. In no case shall the exemption herein made apply to more than one person, head of the family, nor shall the said exemption exceed \$4,000 in assessed value, nor 160 acres in area for any resident of this state who is not over 65 years of age. The homesteads of residents of this state, over 65 years of age, or who are retired due to permanent and total disability, regardless of age, or who are blind as defined in Section 1-1-3, regardless of age or whether such person is retired, shall be exempt from all state ad valorem taxes.

The state Commissioner of Revenue is hereby empowered to define and specify the condition or state of health that makes a person "permanently and totally disabled" and may issue certificates of disability to such person as he may find meets such specifications. Any person who is drawing any pension or annuity from the armed services or a company or governmental agency as being permanently and totally disabled shall automatically be granted a certificate of permanent and total disability by the state Commissioner of Revenue.

- (b) For tax years beginning on and after October 1, 1981, for residents of this state not over 65 years of age, homesteads, as defined by the Constitution and laws of Alabama, are hereby exempted from all ad valorem property taxes levied, except countywide and school district ad valorem taxes levied for school purposes, by any county of this state. In no case shall such exemption herein made apply to more than one person, head of the family, nor shall the said exemption exceed \$2,000 in assessed value, nor 160 acres in area for any resident of this state who is not over 65 years of age except as provided in subsection (c) of this section.
- (c) For tax years beginning on and after October 1, 1981, the governing body of any county, municipality or other local taxing authority may at any time grant by resolution or ordinance an exemption from any levy of ad valorem property taxes levied by such county, municipality or other local taxing authority on homesteads, as defined by the Constitution and laws of Alabama, of residents of this state not over 65 years of age. In no case shall such exemption herein allowed apply to more than one person, head of the family, nor shall said exemption, when added to any other homestead exemption applicable to the same ad valorem tax levy, exceed \$4,000 in assessed value, nor 160 acres in area. Any homestead exemption granted pursuant to this subsection (c) may be adjusted, rescinded or reinstated at any time by resolution or ordinance of the governing body of the county, municipality or other local taxing authority granting such exemption. Any action authorized by this subsection to be taken by a taxing authority, or the governing body thereof, shall, other than in the case of a municipality, be taken by resolution of the governing body of the county in which such taxing authority is located acting on behalf of such taxing authority; provided however, any action authorized by this subsection to be taken by a taxing authority, or the governing body thereof, which action shall affect countywide or district ad valorem taxes levied solely for the support of county or city school districts, shall be taken by resolutions of the governing bodies and boards of the school systems that are recipients of the proceeds of the ad valorem tax so affected by such action. The provisions of this subsection (c) shall in no way annul or reduce exemptions provided under subsections (a), (b) and (d) of this section.
- (d) For tax years beginning on and after October 1, 1981, for residents of this state, over 65 years of age who have an annual adjusted gross income of less than \$12,000 as reflected on the most recent state income tax return or some other appropriate evidence, or who are retired due to permanent and total disability, regardless of age, or who are blind as defined in Section 1-1-3, regardless of age or whether such person is retired, homesteads, as defined in the Constitution and laws of Alabama, are hereby exempted from ad valorem property taxes levied by any county of this state, including such taxes levied for school districts. In no case shall such exemption exceed \$5,000 in assessed value, nor 160 acres in area. With respect to homesteads situated in more than one county, the exemption granted herein shall be prorated between the counties in which the homestead is situated in the proportion that the area of the homestead in each county bears to the total area of the homestead claimed for exemption.

The Department of Revenue may by regulation define and specify the condition or state of health that makes a person "permanently and totally disabled" and may issue certificates of disability to any person that meets such specifications. Any person who is drawing any pension or annuity from the armed services, a private

company or any governmental agency because he is permanently and totally disabled shall automatically be granted a certificate of permanent and total disability by the Department of Revenue.

- (e) The grant of any homestead exemption provided under the provisions of this section shall not be allowed if such grant shall prevent the payment of any bonded indebtedness secured by any tax to which the homestead exemption would apply.

Section 40-9-19.1.

- (a) The governing body of any municipality may, upon the request of the board of education of such municipality, grant, by resolution, an exemption in whole or in part from the increased portion of any ad valorem property tax which has been increased pursuant to the procedures specified in paragraph (f) of Amendment No. 373 to the Constitution of Alabama of 1901 for public school purposes, on homesteads of residents of such municipality over 65 years of age, or who are retired due to permanent and total disability, regardless of age, or who are blind, as defined in Section 1-1-3, regardless of age or whether such person is retired. Any homestead exemption granted pursuant to this section may be adjusted, rescinded or reinstated at any time upon the request of the board of education of such municipality by resolution of the governing body of such municipality. Any request made by a board of education regarding an exemption pursuant to this section shall be made by a resolution adopted by such board of education.
- (b) The provisions of this section shall in no way annul or reduce exemptions provided under any other provisions of the Constitution and laws of Alabama.

Section 40-9-21.

In addition to the persons and property exempt from ad valorem taxation as prescribed in Section 40-9-1, the following shall also be exempt from ad valorem taxation: the principal residence and 160 acres adjacent thereto of any person who is totally disabled or who is 65 years of age or older having a net annual taxable income of \$7,500 or less, as shown on such person's and spouse's latest United States income tax return. In the event that such person and spouse are not required to file a United States income tax return, then an affidavit indicating that the net taxable income of such person and spouse for the preceding taxable year was \$7,500 or less shall be sufficient proof. Proof of age shall be furnished when the exemption provided herein is claimed. Proof of total disability may be, but shall not be limited to, the written certification of such total disability by any two physicians licensed to practice in this state. In order to qualify for exemption under this section, such principal residence must be a single-family residence owned and occupied by a person qualifying under this section.

Section 40-9-21.1.

Any law to the contrary notwithstanding, any person who is permanently and totally disabled and who qualifies for the homestead exemptions in Sections 40-9-19 and 40-9-21 shall not be required to annually claim such exemptions after the initial qualification, but may verify such condition each year thereafter by mail on a form affidavit to be provided by the tax assessor. Also, any person over the age of 65 who qualifies for the homestead exemptions under the income limitations provided in Sections 40-9-19 and 40-9-21 shall after the initial qualification be allowed to verify such eligibility each year by mail on a form affidavit to be provided by the tax assessor.

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Title 41

State Government

Chapter 14A – SAFE Program

Section 41-14A-1

This chapter may be cited as the “Security for Alabama Funds Enhancement Act.”

Section 41-14A-2

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

- (1) **AVERAGE MONTHLY BALANCE OF PUBLIC DEPOSITS.** The sum of the average daily balances of public deposits, meaning the net average daily balances of public deposits determined without any deduction for deposit insurance, for the reported month and the 11 months preceding that month, divided by 12.
- (2) **BOARD OF DIRECTORS or BOARD.** The Board of Directors of the SAFE Program established under Section 41-14A-6. The board of directors shall consist of eight members.
- (3) **COLLATERAL-PLEDGING LEVEL or COLLATERAL-PLEDGING REQUIREMENT.** The percentage or percentages of collateral, in relation to one or more levels of public deposits held, required to be pledged by a qualified public depository as determined in accordance with the provisions of this chapter or rules or orders of the board adopted pursuant to this chapter.
- (4) **COVERED PUBLIC ENTITY.** The state and its political subdivisions, including its agencies, departments, boards, commissions, officers, public institutions of higher learning as defined in Section 16-5-1, and courts; counties, including the offices of their public officials, whether elected or appointed, and any of their agencies, departments, boards, school districts, commissions, and courts; municipalities, and any of their agencies, departments, boards, school districts, commissions, and courts; public corporations, including any public board, authority, or district, heretofore or hereafter organized or created in this state pursuant to authorization or determination of any municipality or municipalities or by any county or counties or the governing body of any one or more thereof and that receive any appropriations of funds by action of the Legislature of this state or any governing body of any political subdivision, municipality, or county of this state or that receive the proceeds of any tax levied pursuant to any statute of this state; any improvement authority incorporated under Chapter 7 of Title 39; any public corporation or instrumentality created under the statutes of this state enacted prior to January 1, 2001, that expressly provide that depositories of funds of such public corporation or instrumentality shall pledge collateral to secure the public corporation’s or instrumentality’s deposits; and any other public corporation created under statutes of this state enacted on or after January 1, 2001, that provide that the public corporation shall be subject to the provisions of this chapter.
- (5) **COVERED PUBLIC OFFICIAL.** In the case of the State of Alabama, the State Treasurer or the State Treasurer’s designee, and, in the case of each other covered public entity, the treasurer or other chief financial officer or public official, or designee thereof, responsible for handling deposits of any funds of such covered public entity.
- (6) **CUSTODIAN.** Any bank, savings association, or trust company that:

- a. Is organized and existing under the laws of this state, any other state of the United States, or the United States.
 - b. Has executed all forms required under this chapter or any rule adopted hereunder.
 - c. Agrees to be subject to the jurisdiction of the courts of this state, or of courts of the United States which are located within this state, for the purpose of any litigation arising out of this chapter.
 - d. Has been approved pursuant to this chapter to act as a custodian.
- (7) **DEFAULT or INSOLVENCY.** The failure or refusal of a qualified public depository to pay any check or warrant drawn upon sufficient and collected funds by any public depositor or to return any deposit on demand or at maturity together with interest as agreed; the issuance of an order by any supervisory authority restraining such depository from making payments of deposit liabilities; or the appointment of a receiver for such depository.
 - (8) **DEPOSIT INSURANCE.** That amount of insurance provided by the Federal Deposit Insurance Corporation or its successor, applicable to each public depositor's public deposits in a particular financial institution.
 - (9) **ELIGIBLE COLLATERAL.** Any of the types of securities or other investment instruments designated as being eligible collateral for state depositories in Section 41-14-35.
 - (10) **FINANCIAL INSTITUTION.** A bank or savings association which is organized and existing under the laws of this state, any other state of the United States, or the United States, and which is authorized pursuant to the laws of this state or the United States to conduct, and is conducting, the business of making loans and taking deposits in this state.
 - (11) **GENERALLY APPLICABLE PLEDGING LEVEL.** Prior to December 31, 2003, 100 percent of a qualified public depository's net average daily balance of public deposits; and on and after December 31, 2003, the percentage of net average daily balance of public deposits established by the board of directors as the generally applicable collateral pledging level for qualified public depositories, provided, however, that the generally applicable collateral pledging level established by the board of directors shall not be less than 70 percent of a qualified public depository's net average daily balance of public deposits.
 - (12) **LOSS PAYMENT FUND.** The SAFE Loss Payment Fund established under Section 41-14A-10.
 - (13) **LOSS TO PUBLIC DEPOSITORS.** Loss of all or part of principal or all or part of interest, or both, or other earnings on the principal accrued or accruing as of the date the qualified public depository was declared in default or insolvent.
 - (14) **NET AVERAGE DAILY BALANCE OF PUBLIC DEPOSITS.** With respect to a reported month, the total of the daily account balances of all public deposits held by a qualified public depository, less applicable deposit insurance, divided by the number of calendar days in the month.
 - (15) **PROGRAM ADMINISTRATION FUND.** The SAFE Program Administration Fund established under Section 41-14A-12.
 - (16) **PROGRAM ENFORCEMENT FUND.** The SAFE Program Enforcement Fund established under Section 41-14A-13.
 - (17) **PUBLIC DEPOSIT.** The funds of any covered public entity or covered public official that are placed on deposit in a qualified public depository, including, but not limited to, time deposit accounts, demand deposit accounts, and certificates of deposit. All certificates of deposit, whether negotiable or nonnegotiable, shall be considered deposits and shall be subject to the provisions of this chapter. Funds held by a financial institution, on behalf of a covered public entity or covered public official, in securities and other investment vehicles,

including, but not limited to, bonds, notes, bills, warrants, common trust funds, money market mutual funds and other mutual funds, investment trusts, repurchase agreements, and reverse repurchase agreements and similar instruments are considered investments and are not public deposits as defined in this subdivision.

- (18) **PUBLIC DEPOSITOR.** Any covered public entity or covered public official which or who makes a public deposit.
- (19) **QUALIFIED PUBLIC DEPOSITORY.** Any financial institution that has deposit insurance under the provisions of the Federal Deposit Insurance Act, 12 U.S.C. § 1811 et seq., that meets all of the requirements of this chapter, and that has been designated by the board as a qualified public depository.
- (20) **REQUIRED COLLATERAL.** That eligible collateral which is required to be pledged by a qualified public depository in order to satisfy the qualified public depository's collateral-pledging requirement.
- (21) **SAFE COLLATERAL POOL.** At any given time, the aggregate collateral pledged by all qualified public depositories pursuant to this chapter in connection with the SAFE Program.
- (22) **SAFE PROGRAM.** The Security for Alabama Funds Enhancement Program established and to be administered under this chapter.
- (23) **STATE TREASURER.** The Treasurer of the State of Alabama.

Section 41-14A-3

- (a) On and after January 1, 2001:
 - (1) All public deposits of all covered public entities and covered public officials shall be governed by this chapter and shall be secured as provided in this chapter.
 - (2) All public depositors shall, notwithstanding any other laws to the contrary, place their public deposits with one or more qualified public depositories in accordance with this chapter.
 - (3) All financial institutions shall file the reports required by this chapter or by rule, regulation, or order of the board of directors and all financial institutions accepting any public deposits shall be a qualified public depository and shall comply with all provisions of this chapter, including, without limitation, the collateral pledging requirements of Section 41-14A-5.
- (b) Funds held solely for the purpose of paying registrars or paying agents are exempt from the requirements of this chapter.

Section 41-14A-4

There is hereby created the Security for Alabama Funds Enhancement (SAFE) Program. The SAFE Program shall be administered by the State Treasurer in accordance with the provisions of this chapter and rules, regulations, and guidelines established by the board of directors of the SAFE Program pursuant to Section 41-14A-6. The facilities and resources of the State Treasurer's office shall be used and employed in the administration of the SAFE Program including the keeping of records and the management of funds and accounts.

In addition to all other powers and responsibilities assigned or undertaken by the State Treasurer under this chapter, the State Treasurer shall be authorized to undertake such powers and responsibilities as shall be delegated to the State Treasurer by the Board of Directors of the SAFE Program.

The Loss Payment Fund, the Program Administration Fund, the Program Enforcement Fund, and any other funds and accounts maintained by the State Treasurer pursuant to this chapter, and all interest and earnings from the investment thereof, shall be exempt from all taxation by the state and by all of its political subdivisions.

Section 41-14A-5

- (a) Every qualified public depository shall maintain on deposit with a custodian, to be held subject to the order of the State Treasurer or the State Treasurer's designee (which may be a financial institution designated by the State Treasurer), eligible collateral having a market value equal to or in excess of the amount of collateral required under this section.
- (b) Each qualified public depository shall be required to pledge collateral, in accordance with procedures established by the board of directors, equal to or exceeding the greater of the following: (1) The generally applicable pledging requirement; and (2) the applicable percentage of the qualified public depository's net average daily balance of public deposits established under rules or orders adopted pursuant to subsection (c) or subsection (d) below.
- (c) The State Treasurer may, from time to time, in his or her discretion require that certain qualified public depositories pledge collateral at levels greater than the generally applicable pledging percentage, including, without limitation, in the case of a qualified public depository with capital accounts which exceed, or constitute an unacceptably high percentage of, the public deposits maintained with the qualified public depository, and in the case of qualified public depositories which the State Treasurer determines may present a higher risk of potential default or insolvency in light of when they commenced operation, recent decrease in capital accounts, recent change in financial condition, and similar matters. The State Treasurer may impose increased collateral-pledging requirements under this subsection pursuant to generally applicable rules and guidelines adopted by the board of directors or by entering orders applicable to individual qualified public depositories in accordance with criteria and conditions approved by the board of directors, or both. In the event the State Treasurer issues an order establishing an increased collateral-pledging level applicable to a particular qualified public depository, the State Treasurer shall promptly notify the affected qualified public depository in writing.
- (d) The State Treasurer may impose higher collateral-pledging requirements on a qualified public depository to the extent that the public deposits maintained by the qualified public depository exceed a specified percentage (the "designated concentration level") established by the board of directors by rule or regulation of the total public deposits held in all qualified public depositories, in which event each affected qualified public depository shall maintain a collateral-pledging level as follows:
 - (1) With respect to the qualified public depository's net average daily balance of public deposits that do not exceed the designated concentration level, the collateral-pledging requirement shall be determined under subsections (b) or (c) above, as applicable.
 - (2) With respect to the qualified public depository's net average daily balance of public deposits that exceed the designated concentration level, the collateral-pledging requirement shall be the percentage of net average daily balances of public deposits designated by the board.

Determination of whether any qualified public depository maintains collateral in excess of the designated concentration level shall be made by the State Treasurer on the basis of the net average monthly balance of public deposits during the immediately preceding 12-month period.
- (e) Deposits of eligible collateral shall be made with a custodian in accordance with procedures established by the State Treasurer, including procedures relating to the execution of documentation to assure that the State Treasurer, on behalf of the Loss Payment Fund, will be able to liquidate collateral deposited by each qualified public depository in the event of a loss to public depositors. Each custodian shall be approved by the State

Treasurer in accordance with rules, regulations, or guidelines adopted by the board of directors and the laws of this state.

A qualified public depository may not accept or retain any public deposits which are required to be secured unless it has first deposited eligible collateral equal to or exceeding its required collateral pursuant to this chapter. During any month, a qualified public depository may not accept any public deposit that would increase its net average daily balance of public deposits for that month by 25 percent over the net average daily balance of public deposits for the previously reported month unless it deposits or has on deposit additional required collateral to secure such increase and reports such additional collateral to the State Treasurer prior to the acceptance of such deposit.

- (f) Collateral shall be valued in such manner as shall be established in rules or regulations adopted by the board of directors, provided that valuations may not be required more frequently than monthly for any qualified public depositories other than in the case of depositories which are then subject to any suspension, disqualification, or cease and desist order under this chapter. Withdrawals and substitutions of collateral pledged by qualified public depositories shall not be permitted without the approval of the State Treasurer. The State Treasurer shall adopt rules, regulations, or guidelines to permit qualified public depositories to withdraw collateral pledged under this chapter by substituting other eligible collateral of at least equal market value. Any qualified public depository that withdraws or substitutes collateral or custodian that permits withdrawal or substitution of collateral in violation of this chapter shall be subject to the penalties provided in subdivision (3) of subsection (e) of Section 41-14A-7.
- (g) A custodian holding collateral under this chapter shall hold such collateral for the benefit of the Loss Payment Fund. The security interest of the Loss Payment Fund in collateral placed with a custodian shall be deemed automatically perfected under the provisions of Articles 8 and 9 of Title 7, as of the date of the acceptance of the deposit of the collateral with the custodian or any subagent of the custodian without the necessity of further action on the part of the Loss Payment Fund. Prior to a default by a qualified public depository and the institution of action by the State Treasurer to enforce the security interest of the Loss Payment Fund under this chapter, the qualified public depository shall not be deemed to have transferred ownership of any pledged collateral to the State Treasurer or the Loss Payment Fund but the qualified public depository's ownership of the pledged collateral shall be subject to a valid and enforceable lien and security interest in favor of the Loss Payment Fund. Any sale pursuant to the provisions of this chapter by the State Treasurer of any collateral pledged to the Loss Payment Fund shall, when the sale is made and the purchase price paid, have the effect of transferring to and vesting in the purchaser of such sale title to the said bonds or other securities comprising such collateral and as authorizing the said purchaser to have the bonds or other securities so purchased registered in the name of the purchaser or its nominee.

Section 41-14A-6

- (a) There is hereby established a Board of Directors of the SAFE Program charged with responsibility and authority to assess and manage the sufficiency of the collateral pool and the SAFE Program to provide adequate protection from losses to public depositors. In exercising its powers and performing its responsibilities, the board of directors shall constitute a body politic under the laws of the state performing the public function of assuring the safety of public deposits.
- (b) The State Treasurer shall be a permanent, standing, voting member of the board of directors and shall serve as its chair. The Superintendent of Banks shall be a permanent, standing, non-voting member of the board of directors. The remaining six members shall each possess knowledge, skill, and experience in one or more of the following areas:
 - (1) Financial analysis.
 - (2) Trend analysis.

- (3) Accounting.
- (4) Banking.
- (5) Risk management.
- (6) Investment management.

The remaining six members shall be comprised of four members each of whom shall be a representative of an active qualified public depository, which is not in the process of withdrawing from the SAFE Program and which is in compliance with all applicable rules, regulations, and reporting requirements of this chapter, one of whom will be selected and approved by the State Treasurer and three of whom shall be selected and approved by the State Treasurer from three or more nominations submitted by the Alabama Bankers Association (or any successor association or entity, or, if no such association or successor association or entity shall then exist, submitted by the Superintendent of Banks); one member who shall be a representative of a municipality within the state and who will be selected and approved by the State Treasurer from one or more nominations submitted to the State Treasurer by the League of Municipalities of Alabama; and one member who shall be a representative of a county within the state and who will be selected and approved by the State Treasurer from one or more nominations submitted to the State Treasurer by the Association of County Commissions of Alabama. The terms of the members of the board of directors other than the State Treasurer and the Superintendent of Banks shall be four years, except that, with respect to the initial appointments, as determined by the State Treasurer, one member will serve one year, one member will serve two years, two members will serve three years, and two members will serve four years. Any person appointed to fill a vacancy on the board may serve only for the remainder of the unexpired term. Any member is eligible for reappointment and shall serve until a successor is selected. The chair shall annually designate a member of the board of directors to serve as vice chair, and a secretary who need not be a member of the board of directors. The secretary shall keep a record of the proceedings of the board of directors and shall be the custodian of all printed materials filed with or by the board. Notwithstanding the existence of vacancies on the board of directors, two thirds of the voting members then serving shall constitute a quorum. The board of directors may not take official action in the absence of a quorum. The board of directors shall meet quarterly and at other times deemed necessary to assess and manage the operations of the SAFE Program. Meetings of the board of directors, including meetings at which administrative fines and penalties are established, shall be subject to the provisions of Section 13A-14-2, as amended, the Sunshine Law, except that sessions at which any information that is confidential under the provisions of subsection (f) below shall not be subject to Section 13A-14-2, and shall not be open to the public.

- (c) In adopting, amending or repealing any rule, regulation, standard, or statement of general applicability, the board of directors shall be subject to the applicable requirements of the Alabama Administrative Procedure Act, Chapter 22 of this title.
- (d) In connection with the assessment and management of the sufficiency of the collateral pool and the SAFE Program to provide adequate protection from losses to public depositors, the board of directors shall be authorized to exercise the following powers:
 - (1) Designate financial institutions as qualified public depositories and require such collateral, or increase the collateral-pledging level, of any qualified public depository as may be necessary to administer the provisions of this chapter and to ensure the sufficiency of the collateral pool and the SAFE Program to provide adequate protection from losses to public depositors.
 - (2) Establish guidelines for accepting, or for reducing the reported value of, collateral as circumstances may require in order to ensure the pledging of sufficient marketable collateral to meet the purposes of this chapter.

- (3) Authorize the State Treasurer to issue suspensions, disqualifications, administrative penalties, and cease and desist orders in accordance with Section 41-14A-7 against any qualified public depository that has violated any of the provisions of this chapter or any rules, regulations, or orders of the board of directors or the State Treasurer adopted under this chapter.
- (4) Take such actions as the board of directors shall consider to be necessary, appropriate, or desirable in order to assess and manage the sufficiency of the collateral pool and the SAFE Program to provide adequate protection from losses to public depositors, including, without limitation:
 - a. Establish procedures for the verification of the reports of any qualified public depository relating to public deposits it holds when necessary to ensure the availability of adequate funds to pay any potential losses to public depositors.
 - b. Establish criteria, based on the overall financial condition of the participants and applicants, as may be necessary, to ensure the sufficiency of the collateral pool and the SAFE Program to provide adequate protection from losses to public depositors.
 - c. Establish collateral-pledging levels based on qualitative and quantitative standards.
 - d. Establish rules and procedures for the State Treasurer to monitor and confirm, as often as deemed necessary by the State Treasurer, the pledged collateral held by custodians.
 - e. Set requirements for the filing by qualified public depositories, custodians, the State Treasurer, the board's agents and contractors, and other persons of such documents, reports, records, or other information deemed necessary by the board of directors to monitor the sufficiency of the collateral pool and the SAFE Program to provide adequate protection from losses to public depositors, including, without limitation:
 1. Require reports of each qualified public depository to reflect the net average monthly balance of the public deposits held by the qualified public depository and to reflect the collateral pledged by qualified public depositories under this chapter, which reports shall not be required more frequently than monthly except in the case of any qualified public depository that is then subject to default or insolvency or is the subject of an order of suspension or disqualification or a cease and desist order issued by the State Treasurer.
 2. Require the submission of copies of quarterly or annual financial and regulatory reports of qualified public depositories.
 - f. Direct the State Treasurer to maintain perpetual inventory of pledged collateral.
 - g. Perform, or direct the State Treasurer to perform, financial analysis of any qualified public depository as needed.
 - h. Establish a minimum amount of required collateral as the board of directors deems necessary to provide for the contingent liability pool.
- (5) Empower the State Treasurer to sell pledged securities, or move pledged securities to an account established in the Loss Payment Fund's name, for the purpose of paying losses to public depositors not covered by deposit insurance or to perfect the Loss Payment Fund's interest in the pledged securities.
- (6) Empower the State Treasurer to transfer funds directly from any custodian to public depositors or the receiver in order to facilitate prompt payment of claims.
- (7) Adopt and implement, and monitor compliance with, such standards, rules, regulations, guidelines, and orders as the board of directors shall consider to be appropriate or desirable for the purposes of

maintaining the sufficiency of the collateral pool to provide adequate protection from losses to public depositors.

- (8) Delegate to the State Treasurer all of the responsibility for the day-to-day administration of the SAFE Program and of the standards, rules, regulations, guidelines, and orders adopted by the board of directors, as deemed appropriate or desirable by the board of directors.
 - (9) Establish the conditions under which entities resulting from mergers, consolidations, sales of assets and similar transactions involving qualified public depositories will succeed qualified public depositories and assume the former institution's contingent liability agreement under Section 41-14A-8, and to prescribe requirements for notification by qualified public depositories to the board of mergers, consolidations, sales of assets, changes of address, changes of name, and similar matters.
 - (10) Establish the conditions under which qualified public depositories will be required to involuntarily withdraw from participation in the program and for the conditions under which collateral pledged by withdrawing qualified public depositories will be released.
 - (11) Authorize the filing of any information or forms required under this chapter to be by electronic data transmission. Such filings of information or forms shall have the same force and effect as a signed writing.
- (e) The board of directors shall adopt rules or regulations empowering the State Treasurer to impose requirements on qualified public depositories to ensure that applicable accounts maintained by covered public entities and covered public officials are adequately identified as public deposits covered by this chapter and that each qualified public depository can identify on its records the name, address, and federal employer identification number of the covered public entities and covered public officials maintaining public deposits in such qualified public depository. The State Treasurer may require that each qualified public depository shall provide an annual statement to each public depositor then maintaining public deposits with the qualified public depository summarizing the balances of public deposits held by the qualified public depository for the public depositor. The balances reflected in any such annual statement provided by a qualified public depository shall be deemed correct unless the public depositor notifies the qualified public depository to the contrary within 60 days of receipt of the statement.
 - (f) Any information contained in a report of a financial institution provided to the board of directors or the State Treasurer under this chapter shall, if made confidential by any law of the United States or of this state and if the board is notified by the financial institution of such confidentiality, be considered confidential and exempt from the provisions of Section 36-12-40, and not subject to dissemination to anyone other than the board of directors and the State Treasurer under the provisions of this chapter.
 - (g) Members of the board of directors shall serve without compensation, but shall be reimbursed for each day's official duties of the board of directors at the same per diem and travel rate as is paid employees of the state.
 - (h) Neither the board of directors nor the State Treasurer shall have the authority to assess, charge, or collect any of the costs associated with the implementation, administration, or enforcement of the SAFE Program against any covered public entities, covered public officials, or qualified public depositories, provided, however, that this subsection shall not limit or restrict the authority of the board or the State Treasurer, as applicable, to impose administrative penalties or order restitution pursuant to Section 41-14A-7 or to make assessments against qualified public depositories for losses in accordance with Section 41-14A-9.

Section 41-14A-7

- (a) The board of directors shall have the authority to establish by rule or regulation conditions and procedures under which qualified public depositories may be suspended or disqualified and assessed administrative penalties in lieu of suspension or disqualification for violations of this chapter or violations of the board's

standards, rules, regulations, and orders pursuant to this chapter. The State Treasurer shall have the authority to require that qualified public depositories violating this chapter or any of the board's standards, rules, regulations, and orders make restitution, with interest at the legal rate, for losses of public depositors or to the Loss Payment Fund, and to issue cease and desist orders against any qualified public depository violating or believed to be violating any provisions of this chapter or any of the board of directors' or the State Treasurer's standards, rules, regulations, and orders pursuant to this chapter and to impose administrative penalties against any qualified public depository violating any cease and desist order issued by the State Treasurer.

- (b) The suspension or disqualification of a financial institution as a qualified public depository shall be by order of the State Treasurer, and such order shall be mailed to the qualified public depository by registered or certified mail. Within the time and in the manner specified in the order of suspension or disqualification, the financial institution shall provide to the State Treasurer a report listing the names and addresses of each public depositor having public deposits with the financial institution and such other relevant information as the State Treasurer may request, and the State Treasurer shall provide for the prompt notification to each public depositor having public deposits with a suspended or disqualified financial institution of any such suspension or disqualification.
- (c) The procedures for suspension or disqualification shall be as set forth in Chapter 22 of this title, and in the rules of the board of directors adopted pursuant to this chapter.
- (d) Whenever the State Treasurer determines that an immediate danger to the public health, safety, or welfare exists, the board may take any appropriate action that may be available under the provisions of Chapter 22 of this title.
- (e) If the State Treasurer finds that one or more grounds exist for the suspension or disqualification of a qualified public depository, the State Treasurer, in lieu of such suspension or disqualification, may impose an administrative penalty upon the qualified public depository as follows:
 - (1) With respect to any nonwillful violation, such penalty, exclusive of any restitution found to be due, may not exceed two hundred fifty dollars (\$250) for each violation. Each day a violation continues constitutes a separate violation; provided, however, that the maximum aggregate penalty for any continuing violation under this subdivision shall be five thousand dollars (\$5,000) irrespective of the number of days the violation continues prior to the assessment of the penalty.
 - (2) With respect to any knowing and willful violation of a lawful order or rule, including, without limitation, the failure to make restitution in accordance with a lawful order of the State Treasurer following notification to the qualified public depository, the State Treasurer may impose a penalty upon the qualified public depository in an amount not exceeding two thousand five hundred dollars (\$2,500) for each violation. Each day a violation continues constitutes a separate violation; provided, however, that the maximum aggregate penalty for any single continuing violation under this subdivision shall be twenty thousand dollars (\$20,000) irrespective of the number of days the violation continues prior to the assessment of the penalty.
 - (3) A qualified public depository or custodian that violates subsection (f) of Section 41-14A-5 is subject to an administrative penalty in an amount not exceeding the greater of two thousand five hundred dollars (\$2,500) or 10 percent of the amount of withdrawal, not exceeding twenty thousand dollars (\$20,000) in the aggregate.
 - (4) If any qualified public depository or other financial institution violates a cease and desist order, the State Treasurer may, in addition to suspending or disqualifying the qualified public depository, impose an administrative penalty in an amount not exceeding two thousand five hundred dollars (\$2,500) for each violation. Each day a violation continues constitutes a separate violation; provided, however, that the maximum aggregate penalty for any single continuing violation under this subdivision shall be twenty thousand dollars (\$20,000) irrespective of the number of days the violation continues prior to the assessment of the penalty.

- (f) Any suspension shall be for the period established by the board in the order of suspension, not to exceed a period of six months. During the period of suspension of any qualified public depository, the contingent liability, required collateral, and reporting requirements of the suspended public depository remain in force under the same conditions as if the suspended depository had remained qualified. Upon expiration of the suspension period, the suspended qualified public depository may, by order of the State Treasurer, be reinstated as a qualified public depository if the State Treasurer finds that the financial institution has corrected the conditions that resulted in suspension and otherwise is in compliance with all provisions of this chapter and of the board's standards, rules, regulations, and orders.
- (g) Except as may otherwise be provided by the board of directors by rule or regulation, any qualified public depository which has been disqualified may not reapply for qualification until after the expiration of one year from the date of the final order of disqualification or the final disposition of any appeal taken therefrom. During the period of disqualification, the contingent liability, required collateral, and reporting requirements of the disqualified public depository remain in force under the same conditions as if the disqualified depository had remained qualified. A qualified public depository that has been disqualified shall not receive or retain public deposits after the effective date of disqualification. The State Treasurer shall, upon request, return to the disqualified public depository that portion of the collateral pledged that is in excess of the required collateral applicable to the disqualified public depository.

Section 41-14A-8

Every qualified public depository that is solvent shall guarantee public depositors against loss caused by the default or insolvency of other qualified public depositories according to the terms of this chapter and shall enter into an agreement of contingent liability with the State Treasurer on behalf of the Loss Payment Fund, which agreement shall be in a form which is prescribed or approved by the board of directors, and which, when executed, shall become a part of the official records of the SAFE Program. The qualified public depository shall submit to the State Treasurer evidence that the depository's contingent liability agreement has been approved by the board of directors or other governing body of the qualified public depository and shall become a part of the official records of the qualified public depository.

Section 41-14A-9

- (a) When the State Treasurer becomes aware that a default or insolvency has occurred, the State Treasurer shall provide notice as required in subsection (b) and implement the following procedures:
 - (1) The State Treasurer shall obtain information from the Superintendent of Banks of the State Banking Department or the receiver of the qualified public depository in default in order to ascertain the amount of funds of each public depositor on deposit at such depository and the amount of deposit insurance applicable to such deposits.
 - (2) The potential loss to public depositors shall be calculated by compiling claims received from public depositors. The State Treasurer shall validate claims of public depositors who filed claims under subsection (b) and which have been confirmed under subdivision (1).
 - (3) The loss to public depositors shall be satisfied, insofar as possible, first through any applicable deposit insurance and then through the sale of securities pledged by the defaulting depository. If the loss to public depositors is not covered by insurance or the proceeds of the sale, coverage of the remaining loss shall be provided by assessment against the other qualified public depositories following the expiration of the 120-day period for the filing of claims by public depositors. However, if the sale of securities cannot be accomplished within seven days following the expiration of the 120-day period for the filing of claims by public depositors, the State Treasurer may proceed with the assessment for qualified public depositories. The assessment for each qualified public depository shall be determined by multiplying the total amount of any remaining loss to all public depositors by a percentage which represents the average

monthly balance of public deposits held by each qualified public depository during the previous 12 months or, in the event a qualified public depository shall have participated in the program for less than 12 months, the qualified public depository's average monthly balance for the month or months during which the qualified public depository shall have held any public deposits, divided by the total average monthly balances of public deposits held by all qualified public depositories, excluding those of the defaulting or insolvent depository, during the same period.

- (4) Each qualified public depository shall pay its assessment to the State Treasurer for deposit to the Loss Payment Fund within seven business days after it receives notice of the assessment. If a depository fails to pay its assessment when due, the State Treasurer shall satisfy the assessment by selling securities pledged by that depository.
 - (5) The State Treasurer shall distribute the funds to the public depositors of the qualified public depository in default according to their validated claims. At the discretion of the State Treasurer, the State Treasurer may make partial payments to public depositors that have experienced a loss of public funds which is critical to the immediate operations of the public entity.
 - (6) Public depositors receiving payment under the provisions of this section shall assign to the Loss Payment Fund any interest they may have in funds that may subsequently be made available to the qualified public depository in default. If the qualified public depository in default or its receiver provides the funds to the State Treasurer for the account of the Loss Payment Fund, the State Treasurer shall distribute the funds, plus all accrued interest which has accumulated from the investment of the funds, if any, to the depositories which paid assessments on the same pro rata basis as the assessments were paid. If the board of directors deems it prudent to do so, the board of directors may authorize the State Treasurer to enforce any or all claims, or take any other action, against a defaulting or insolvent qualified public depository or third party to recover all or part of any losses to any public depositor or assessments against any other qualified public depositories. Action or inaction by the board of directors or the State Treasurer will not impair the rights that any public depositor or qualified public depository may have against a defaulting or insolvent qualified public depository or any third party.
 - (7) Expenses incurred by the board of directors, the State Treasurer, or their agents in connection with a default or insolvency that is not normally incurred in the administration of the SAFE Program shall be paid out of the proceeds from the sale of the pledged collateral.
- (b) Upon determining the default or insolvency of a qualified public depository, the State Treasurer shall provide notice of such default or insolvency to all public depositors of such qualified public depository the identity of which is reflected in the board's or the qualified public depository's records, "known public depositors," which notice, the "first notice," shall be provided by certified or registered mail to the last address for each such public depositor reflected in the qualified public depository's records and shall specify that public depositors having claims or demands against the funds occasioned by the default or insolvency must file their claims with the State Treasurer within 120 days after the date of the notice. In the case of any known public depositor which has not filed a claim with the State Treasurer within 45 days after the date of the first notice, the State Treasurer shall mail a second notice, the "second notice," by certified or registered mail to the last address for such known public depositor reflected in the qualified public depository's records, which second notice shall specify the date by which claims must be filed with the State Treasurer. The second notice shall be mailed by the State Treasurer not more than 55 days after the date of the first notice. Contemporaneously with the mailing of the first notice and the second notice, the State Treasurer shall provide to the judge of probate of each county of the state and publish in a newspaper of general circulation a notice, which notice shall identify the defaulted or insolvent qualified public depository, the date before which public depositors must file claims with the State Treasurer under this chapter, and requesting that the judge of probate provide copies of such notice to each covered public entity within the judge of probate's county. The judge of probate of the various counties of this state shall promptly endeavor to provide copies of said notices to each covered public entity in the judge of probate's county which is known to the judge of probate, but in no event shall the judge of probate be liable for the failure of any covered public entity to receive copies of said notices.

- (c) No claim against the Loss Payment Fund is binding on the State Treasurer or the Loss Payment Fund unless presented within 120 days after the date of the first notice.
- (d) Nothing contained in this chapter shall affect any proceeding to:
 - (1) Enforce any real property mortgage, chattel mortgage, security interest, or other lien on property of a qualified public depository that is in default or insolvency.
 - (2) Establish liability of a qualified public depository that is in default or insolvency to the limits of any federal or other casualty insurance protection.

Section 41-14A-10

- (a) In order to facilitate the administration of this chapter, there is created the SAFE Loss Payment Fund, which shall be held and administered by the State Treasurer, for the account of the SAFE Program, separate and apart from the State General Fund. The proceeds from the sale of securities pledged as collateral or from any assessment pursuant to Section 41-14A-9 shall be deposited into the Loss Payment Fund. The amounts on deposit in the Loss Payment Fund shall be disbursed as necessary in accordance with the provisions of this chapter in order to pay losses to public depositors and for such other purposes as may be expressly provided for in this chapter.
- (b) The State Treasurer is authorized to pay any losses to public depositors from the Loss Payment Fund. The term "losses," for purposes of this chapter, shall also include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal required by applicable federal laws or regulations because of suspension or disqualification of a qualified public depository by the State Treasurer under the authority granted in this chapter or because of withdrawal from the SAFE Program in accordance with rules or regulations adopted by the board of directors pursuant to this chapter. In that event, the State Treasurer is authorized to assess against the suspended, disqualified, or withdrawing public depository, in addition to any amount authorized by any other provisions of this chapter, an administrative penalty equal to the amount of the early withdrawal penalty and to pay that amount over to the public depositor as reimbursement for such loss. Any money in the Loss Payment Fund estimated not to be needed for immediate cash requirements shall be invested in any securities or other investments selected by the State Treasurer that are permitted under Section 41-14-30. All interest and other earnings from the investment of assets of the Loss Payment Fund shall accrue to the Loss Payment Fund.

Section 41-14A-11

- (a) When public deposits are made in accordance with this chapter, no public depositor shall be liable for any loss thereof resulting from the default or insolvency of any qualified public depository in the absence of negligence, malfeasance, misfeasance, or nonfeasance on the part of the public depositor, or its agents or employees.
- (b) Under no circumstance shall this state, or any state agency or any covered public entity, be liable for all or any portion of any loss resulting from the default or insolvency of a qualified public depository.

Section 41-14A-12

There is hereby created a SAFE Program Administration Fund, which shall be held and administered by the State Treasurer, in connection with the SAFE Program. The amounts in the Program Administration Fund shall be applied and disbursed by the State Treasurer to pay the costs and expenses of establishing and implementing the SAFE Program and the ordinary costs and expenses of administering the SAFE Program, and to pay the members of the board of directors the per diem and travel rates permitted by Section 41-14A-6(g). There shall be appropriated from

state funds and deposited to the Program Administration Fund for each fiscal year so much as may be necessary in order to pay the costs and expenses of the State Treasurer of establishing, implementing, and administering the SAFE Program as described in this section.

Section 41-14A-13

There is hereby created a SAFE Program Enforcement Fund, which shall be held and administered by the State Treasurer. There shall be paid into the Program Enforcement Fund all administrative penalties collected under this chapter. The amounts in the Program Enforcement Fund shall be applied and disbursed by the State Treasurer to pay the costs and expenses of enforcing the requirements and provisions of this chapter, including the costs of foreclosing on pledged collateral, of making and collecting assessments from qualified public depositories, and of enforcing the obligations of qualified public depositories under contingent liability agreements. Any money in the Program Enforcement Fund estimated not to be needed for immediate cash requirements shall be invested in any securities or other investments selected by the State Treasurer that are permitted under Section 41-14-30. All interest and other earnings from the investment of assets of the Program Enforcement Fund shall accrue to the Program Enforcement Fund.

Section 41-14A-14

The SAFE Program shall be audited annually by the Examiners of Public Accounts to ensure that collateral is being maintained to secure public deposits in amounts that are consistent with the requirements of this chapter. The Program Administration Fund and Program Enforcement Fund shall also be audited annually by the Examiners of Public Accounts.

Chapter 16 – Public Contracts

Article 3 – Competitive Bidding on Contracts of Local Agencies

Section 41-16-50.

- (a) With the exception of contracts for public works whose competitive bidding requirements are governed exclusively by Title 39, all expenditure of funds of whatever nature for labor, services, work, or for the purchase of materials, equipment, supplies, or other personal property involving seven thousand five hundred dollars (\$7,500) or more, and the lease of materials, equipment, supplies, or other personal property where the lessee is, or becomes legally and contractually, bound under the terms of the lease, to pay a total amount of seven thousand five hundred dollars (\$7,500) or more, made by or on behalf of any state trade school, state junior college, state college, or university under the supervision and control of the State Board of Education, the city and county boards of education, the district boards of education of independent school districts, the county commissions, the governing bodies of the municipalities of the state, and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions, except as hereinafter provided, shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder. Prior to advertising for bids for an item of personal property, where the county, a municipality, or an instrumentality thereof is the awarding authority, the awarding authority may establish a local preference zone consisting of either the legal boundaries or jurisdiction of the awarding authority, or the boundaries of the county in which the awarding authority is located, or the boundaries of the Standard Metropolitan Statistical Area (SMSA) in which the awarding authority is located. If no such action is taken by the awarding authority, the boundaries of the local preference zone shall be deemed to be the same as the legal boundaries or jurisdiction of the awarding authority. In the event a bid is received for an item of personal property to be purchased or contracted for from a person, firm, or corporation deemed to be a responsible bidder, having a place of business within the local preference zone where the county, a municipality, or an instrumentality thereof is the awarding authority, and the bid is no more than three percent greater than the

bid of the lowest responsible bidder, the awarding authority may award the contract to the resident responsible bidder. In the event only one bidder responds to the invitation to bid, the awarding authority may reject the bid and negotiate the purchase or contract, providing the negotiated price is lower than the bid price.

- (b) The governing bodies of two or more contracting agencies, as enumerated in subsection (a) within the same county or adjoining counties, or the governing bodies of two or more counties, or the governing bodies of two or more city or county boards of education, may provide, by joint agreement, for the purchase of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property for use by their respective agencies. The agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing agent, and the agent shall have the responsibility to comply with this article. Purchases, contracts, or agreements made pursuant to a joint purchasing agreement shall be subject to all terms and conditions of this article.

In the event that utility services are no longer exempt from competitive bidding under this article, non-adjoining counties may not purchase utility services by joint agreement under authority granted by this subsection.

- (c) All bidders shall furnish a bid bond on any contract exceeding ten thousand dollars (\$10,000) if bonding is available for the services, equipment, or materials.

Section 41-16-51.

- (a) Competitive bids shall not be required for utility services, the rates for which are fixed by law, regulation, or ordinance, and the competitive bidding requirements of this article shall not apply to:
- (1) The purchase of insurance.
 - (2) The purchase of ballots and supplies for conducting any primary, general, special, or municipal election.
 - (3) Contracts for securing services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants, or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part.
 - (4) Contracts of employment in the regular civil service.
 - (5) Contracts for fiscal or financial advice or services.
 - (6) Purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with Sections 21-2-1 to 21-2-4, inclusive.
 - (7) Purchases of maps or photographs from any federal agency.
 - (8) Purchases of manuscripts, books, maps, pamphlets, or periodicals.

- (9) The selection of paying agents and trustees for any security issued by a public body.
 - (10) Existing contracts up for renewal for sanitation or solid waste collection, recycling, and disposal between municipalities or counties, or both, and those providing the service.
 - (11) Purchases of computer and word processing hardware when the hardware is the only type that is compatible with hardware already owned by the entity taking bids and custom software.
 - (12) Professional services contracts for codification and publication of the laws and ordinances of municipalities and counties.
 - (13) Contractual services and purchases of commodities for which there is only one vendor or supplier and contractual services and purchases of personal property which by their very nature are impossible to award by competitive bidding.
 - (14) Purchases of dirt, sand, or gravel by a county governing body from in-county property owners in order to supply a county road or bridge project in which the materials will be used. The material shall be delivered to the project site by county employees and equipment used only on projects conducted exclusively by county employees.
 - (15) Contractual services and purchases of products related to, or having an impact upon, security plans, procedures, assessments, measures, or systems, or the security or safety of persons, structures, facilities, or infrastructures.
 - (16) Subject to the limitations in this subdivision, purchases of goods made as a part of the purchasing cooperative sponsored by the National Association of Counties, or its successor organization. This subdivision shall not apply to goods for which a service or service contract, whether subject to competitive bidding under this article or not, is necessary to utilize the goods. Such purchases may only be made if all of the following occur:
 - a. The goods being purchased are available as a result of a competitive bid process approved by the Alabama Department of Examiners of Public Accounts for each bid.
 - b. The goods are either not at the time available to counties on the state purchasing program or are available at a price equal to or less than that on the state purchasing program.
 - c. The purchase is made through a participating Alabama vendor holding an Alabama business license if such a vendor exists.
- (b) This article shall not apply to:
- (1) Any purchases of products where the price of the products is already regulated and established by state law.
 - (2) Purchases made by individual schools of the county or municipal public school systems from moneys other than those raised by taxation or received through appropriations from state or county sources.
 - (3) The purchase, lease, sale, construction, installation, acquisition, improvement, enlargement, or expansion of any building or structure or other facility designed or intended for lease or sale by a medical clinic board organized under Sections 11-58-1 to 11-58-14, inclusive.
 - (4) The purchase, lease, or other acquisition of machinery, equipment, supplies, and other personal property or services by a medical clinic board organized under Sections 11-58-1 to 11-58-14, inclusive.

- (5) Purchases for public hospitals and nursing homes operated by the governing boards of instrumentalities of the state, counties, and municipalities.
 - (6) Contracts for the purchase, lease, sale, construction, installation, acquisition, improvement, enlargement, or extension of any plant, building, structure, or other facility or any machinery, equipment, furniture, or furnishings therefore designed or intended for lease or sale for industrial development, other than public utilities, under Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20 to 11-54-28, inclusive, or any other statute or amendment to the Constitution of Alabama authorizing the construction of plants or other facilities for industrial development or for the construction and equipment of buildings for public building authorities under Sections 11-56-1 to 11-56-22, inclusive.
 - (7) The purchase of equipment, supplies, or materials needed, used, and consumed in the normal and routine operation of any waterworks system, sanitary sewer system, gas system, or electric system, or any two or more thereof, that are owned by municipalities, counties, or public corporations, boards, or authorities that are agencies, departments, or instrumentalities of municipalities or counties and no part of the operating expenses of which system or systems have, during the then current fiscal year, been paid from revenues derived from taxes or from appropriations of the state, a county, or a municipality.
 - (8) Purchases made by local housing authorities, organized and existing under Chapter 1 of Title 24, from moneys other than those raised by state, county, or city taxation or received through appropriations from state, county, or city sources.
- (c) The state trade schools, state junior colleges, state colleges, and universities under the supervision and control of the State Board of Education, the city and county boards of education, the district boards of education of independent school districts, the county commissions, and the governing bodies of the municipalities of the state shall establish and maintain such purchasing facilities and procedures as may be necessary to carry out the intent and purpose of this article by complying with the requirements for competitive bidding in the operation and management of each state trade school, state junior college, state college, or university under the supervision and control of the State Board of Education, the city and county boards of education, the district boards of education of independent school districts, the county commissions, and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions.
 - (d) Contracts entered into in violation of this article shall be void and anyone who violates the provisions of this article shall be guilty of a Class C felony.

Section 41-16-51.1.

Notwithstanding any other laws to the contrary, when it is necessary for a county or an incorporated municipality to enter into a public contract for the provision of services or for the provision of primarily services even though the contract may include the furnishing of ancillary products or ancillary goods which would otherwise be required to be let by competitive bid, the county or municipality may, without soliciting and obtaining competitive bids, contract with a vendor or provider for the services at a price which does not exceed the price which the state has established through the competitive bid process for the same services under the same terms and conditions and provided it pertains to a current and active bid on a non-statewide agency contract. The mere delivery of products or goods, or the performance of a common, non-specialized service with relation to goods or products shall not make a purchase or contract qualify for the bid exemption hereunder. If a county or incorporated municipality desires to purchase under this bid exception procedure, the purchase must be approved by a majority vote of its governing body at a public meeting thereof.

Section 41-16-52.

- (a) All expenditures of funds of whatever nature for repair parts and repair of heavy duty off-highway construction equipment and of all vehicles with a gross vehicle weight rating of 25,000 pounds or greater, including machinery used for grading, drainage, road construction and compaction for the exclusive use of county and municipal, highway, street and sanitation departments, involving not more than \$15,000 made by or on behalf of any county commissions and the governing bodies of the municipalities of the state, and the governing bodies of instrumentalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions, shall be made, at the option of said governing boards, bodies, instrumentalities and commissions, without regard to the provisions of this article. The foregoing exemption from the provisions of this article shall apply to each incident of repair as to any such repair parts, equipment, vehicles or machinery. The amount of such exempted expenditure shall not be construed to be an aggregate of all such expenditures per fiscal year as to any individual vehicle or piece of equipment or machinery.
- (b) The option provided by subsection (a) of this section may be exercised by said governing boards, bodies, instrumentalities and commissions by specific reference to this section on any and all purchase orders and purchase commitments executed by said governing boards, bodies, instrumentalities and commissions; provided, however said option shall not be exercised by any employee, agent or servant unless done so after having received official prior approval of the respective governing board, body, instrumentality or commission or unless exercised pursuant to a formal policy adopted by such governing board, body, instrumentality or commission setting out conditions and restrictions under which such option shall be exercised.
- (c) All expenditures of funds of whatever nature for the leasing of heavy duty off-highway construction equipment and all vehicles with a gross vehicle weight rating of 25,000 pounds or greater, including machinery for grading, drainage, road construction and compaction for exclusive use of county and municipalities, highway, street and sanitation departments, involving a monthly rental of not more than \$5,000.00 per month per vehicle or piece of equipment or machinery but not to exceed \$15,000.00 per month for all such vehicles and pieces of equipment made by or on behalf of any county commissions and the governing boards of municipalities of the state and the governing bodies of instrumentalities, including waterworks boards, sewer boards, gas boards and other like utility boards and commissions shall be made, at the option of the said governing boards, bodies, instrumentalities and commissions, without regard to the provisions of this article.

Section 41-16-53.

In case of emergency affecting public health, safety or convenience, so declared in writing by the awarding authority, setting forth the nature of the danger to public health, safety or convenience involved in delay, contracts may be let to the extent necessary to meet the emergency without public advertisement. Such action and the reasons therefore shall immediately be made public by the awarding authority.

Section 41-16-54.

- (a) All proposed purchases in excess of seven thousand five hundred dollars (\$7,500) shall be advertised by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for any length of time as may be determined. Sealed bids or bids to be submitted by a reverse auction procedure shall also be solicited by sending notice by mail or other electronic means to all persons, firms, or corporations who have filed a request in writing that they be listed for solicitation on bids for the particular items that are set forth in the request. If any person, firm, or corporation whose name is listed fails to respond to any solicitation for bids after the receipt of three solicitations, the listing may be cancelled.
- (b) Except as provided in subsection (d), all bids shall be sealed when received and shall be opened in public at the hour stated in the notice.

- (c) If the purchase or contract will involve an amount of seven thousand five hundred dollars (\$7,500) or less, the purchases or contracts may be made upon the basis of sealed bids, a reverse auction procedure, or in the open market.
- (d) For purposes of this article, a reverse auction procedure includes either of the following:
 - (1) A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple anonymous suppliers submit bids to provide the designated goods or services.
 - (2) A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple anonymous suppliers submit bids to provide the designated goods or services.
- (e) All original bids together with all documents pertaining to the award of the contract shall be retained in accordance with a retention period of at least seven years established by the Local Government Records Commission and shall be open to public inspection.
- (f) No purchase or contract involving professional services shall be subject to the requirements of this article and no purchase or contract involving an amount in excess of seven thousand five hundred dollars (\$7,500) shall be divided into parts involving amounts of seven thousand five hundred dollars (\$7,500) or less for the purpose of avoiding the requirements of this article. All such partial contracts involving seven thousand five hundred dollars (\$7,500) or less shall be void.

Section 41-16-55.

Any agreement or collusion among bidders or prospective bidders in restraint of freedom of competition, by agreement, to bid at a fixed price or to refrain from bidding or otherwise shall render the bids of such bidders void and shall cause such bidders to be disqualified from submitting further bids to the awarding authority on future purchases.

Whoever knowingly participates in a collusive agreement in violation of this section involving a bid or bids of \$3,000.00 and under shall be guilty of a Class A misdemeanor and, upon conviction, shall be punished as prescribed by law.

Whoever knowingly and intentionally participates in a collusive agreement in violation of this section involving a bid or bids of over \$3,000.00 shall be guilty of a Class C felony, and upon conviction shall be punished as prescribed by law.

Section 41-16-56.

Any disclosure in advance of the terms of a bid submitted in response to an advertisement for bids shall render the proceedings void and require advertisement and award anew.

Section 41-16-57.

- (a) When purchases are required to be made through competitive bidding, awards shall be made to the lowest responsible bidder taking into consideration the qualities of the commodities proposed to be supplied, their conformity with specifications, the purposes for which required, the terms of delivery, transportation charges, and the dates of delivery.

- (b) The awarding authority in the purchase of or contract for personal property or contractual services shall give preference, provided there is no sacrifice or loss in price or quality, to commodities produced in Alabama or sold by Alabama persons, firms, or corporations. Notwithstanding the foregoing, no county official, county commission, school board, city council or city councilmen, or other public official, state board, or state agency charged with the letting of contracts or purchase of materials for the construction, modification, alteration, or repair of any publicly owned facility may specify the use of materials or systems by a sole source, unless:
 - (1) The governmental body can document to the satisfaction of the State of Alabama Building Commission that the “sole source” product or service is of an “indispensable” nature, all other viable alternatives have been explored, and it has been determined that only this product or service will fulfill the function for which the product is needed. Frivolous features will not be considered.
 - (2) The sole source specification has been recommended by the architect or engineer of record and who also documents that there is no other product available and that the use of the requirement is of an indispensable nature and why.
 - (3) All information substantiating the use of a sole source specification is documented in writing and is filed into the project file.
- (c) The awarding authority or requisitioning agency may reject any bid if the price is deemed excessive or quality of product inferior.
- (d) Each record, with the successful bid indicated thereon, and with the reasons for the award if not awarded to the lowest bidder, shall, after award of the order or contract, be open to public inspection.
- (e) Contracts for the purchase of personal property or contractual services shall be let for periods not greater than three years. “Lease-purchase” contracts for capital improvements and repairs to real property shall be let for periods not greater than 10 years and all other lease-purchase contracts shall be let for periods not greater than 10 years.

Section 41-16-58.

Bond in a responsible sum for faithful performance of the contract, with adequate surety, may be required in an amount specified in the advertisement for bids.

Section 41-16-59.

No contract awarded to the lowest responsible bidder shall be assignable by the successful bidder without written consent of the awarding authority, and in no event shall a contract be assigned to an unsuccessful bidder whose bid was rejected because he was not a responsible bidder.

Section 41-16-60.

No member or officer of the said state trade schools, state junior colleges, state colleges and universities under the supervision and control of the State Board of Education, the city and county boards of education, the district boards of education of independent school districts, the county commissions and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards and other like utility boards and commissions, shall be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of or contract for any personal property or contractual service, nor shall any person willfully make any purchase or award any contract in violation of the provisions of this article.

Any violation of this section shall be deemed a misdemeanor, and any person who violates this section shall, upon conviction, be imprisoned for not more than 12 months or fined not more than \$500.00 or both. Upon conviction thereof, any person who willfully makes any purchase or awards any contract in violation of the provisions of this article shall be removed from office.

Section 41-16-61.

Any taxpayer of the area within the jurisdiction of the awarding authority and any bona fide unsuccessful bidder on a particular contract shall be empowered to bring a civil action in the appropriate court to enjoin execution of any contract entered into in violation of the provisions of this article.

Section 41-16-62.

The provisions of this article shall not be applicable to any contracts made by a municipality pursuant to the provisions of Act No. 4 adopted at the 1956 Second Special Session of the Legislature of Alabama, as amended, which relates to the promotion of trade by inducing commercial enterprises to locate in the state and which confers on municipalities having a population not exceeding 100,000 inhabitants, according to the last or any subsequent federal census, powers with respect to the acquisition, leasing and financing of projects suitable for use by certain commercial enterprises.

Section 41-16-63.

This article shall be cumulative in its nature.

Article 6 – Disposition of State Surplus Property

Section 41-16-120

- (a) The Director of the Department of Economic and Community Affairs shall be responsible for the distribution, transfer, or disposal of all surplus personal property owned by the state and all right, title, interest, and equity in the property shall be transferred to the department for such purpose. The director may delegate to the Director of the Surplus Property Division such supervision and control of the distribution or disposal of state owned surplus personal property.
- (b) As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:
 - (1) DIVISION. Surplus Property Division of the Department of Economic and Community Affairs.
 - (2) SURPLUS PROPERTY. That property declared by the property manager of each state department, bureau, board, commission, or agency to be surplus and so designated in writing to the director of the division. All real property owned by any state department, bureau, board, commission, agency, or institution, and any subdivision thereof; including, but not limited to, real property owned by any state college, university, two-year college, technical school, or other postsecondary institution of higher learning shall be handled in the manner provided in Section 41-4-33, or such other provisions of law as may be appropriate but in no circumstance shall any law regarding real property acquired, owned, or disposed of by the state or any subdivision thereof be amended, substituted, or in other manner altered by this article.
 - (3) ELIGIBLE ENTITY. Any public agency or nonprofit educational or public health institution or organization that is eligible to participate as a recipient of surplus property pursuant to the Federal

Property and Administrative Services Act of 1949, as amended, and that is not found to be in violation of division rules and regulations during the 12 months immediately preceding the intended purchase.

- (4) **PROPERTY MANAGER.** That officer or employee who shall be designated by the head of each department, board, bureau, commission, institution, corporation, or agency of the state, in writing, to the division and the State Auditor's office, to be the property manager.
- (5) **PUBLISH.** Print or electronic distribution of information.
- (c) The property manager shall report to the Surplus Property Division of the Department of Economic and Community Affairs any personal property declared surplus by his or her department, board, bureau, commission, institution, corporation, or agency and deliver the property to any place designated by the division to be the proper place for such delivery.
- (d) The director or his or her designee shall be authorized to promulgate such administrative rules and regulations as deemed necessary including, but not limited to:
 - (1) Promotion of surplus property.
 - (2) Shipment of surplus property.
 - (3) Storage of surplus property.
 - (4) Length of retention of surplus property.
 - (5) Public auction of surplus property.
 - (6) Such other rules and regulations as, from time to time, may be determined to be necessary.
- (e) The division shall have authority to sell surplus property at fair market value, as established by the division and set out in its published rules, to eligible entities as defined in subsection (b)(3). Payment for purchases by any of the eligible entities shall be made within 30 days after such purchase. Payment plans may be established at the discretion of the division director or his or her designee within guidelines approved by the Director of ADECA. If payment is not made within 60 days after a purchase, in cases where a payment plan has not been established, then such purchase shall be declared void and in default, and the property shall be returned immediately by the defaulting purchaser to the division.
- (f) Any eligible entity authorized to purchase federal surplus property shall be authorized to purchase state surplus property under this section provided the corporation complies with all federal laws, regulations, and guidelines regarding the purchase of surplus federal property.

Section 41-16-121

- (a) Surplus property shall be made available at such times and places as determined to be appropriate by the division for inspection and acquisition by those agencies determined to be eligible for such acquisition under criteria developed and published by the division.
- (b) The division shall periodically publish a list of all surplus property held by it at the time of such publication.
- (c) The published list shall be made available to all state departments, boards, bureaus, commissions, institutions, corporations, or agencies.
- (d) The published list shall also be made available to all eligible counties, cities, boards of education, civil defense agencies, and volunteer fire departments.

- (e) The division will determine the manner in which the list of surplus personal property shall be published.
- (f) The division shall not be authorized to handle or dispose of any regulated hazardous materials.

Section 41-16-122

- (a) The division shall be authorized to collect fees for transfer, handling, shipping, classification, warehousing, bidding, destruction, scrapping, or other disposal of property and such other fees as may be deemed appropriate in order to insure the continued efficient operation of the surplus property function of the department.
- (b) The division shall be exclusively authorized to receive donated federal surplus property from any source, including the General Services Administration (GSA), for distribution following required federal guidelines in the same manner as state surplus property. The division shall also be exclusively authorized to purchase GSA property of any nature including, but not limited to, vehicles of any type for resale.
- (c) The division shall establish three accounts within the State Treasury for the operation of the surplus property function as follows:
 - (1) The first account shall be known as the Federal Surplus Property Account into which all moneys received from the distribution of federally donated surplus property shall be deposited;
 - (2) The second account shall be known as the State Surplus Property Account into which all moneys received from the distribution of state owned surplus property and any funds appropriated from the State General Fund for the operation of the surplus property function shall be deposited.
 - (3) The third account shall be known as the Surplus Federal Property Inventory Purchase Account into which moneys received by the division from the sale and distribution of surplus federal and state property and deposited into the Federal Surplus Property Account or the State Surplus Property Account may be transferred and deposited as approved by the director, and the moneys from which account shall be used for the purchase of surplus federal property for resale within the State of Alabama, as established by the division and set out in its published rules. This account shall not be subject to appropriation spending restrictions but shall be a perpetual inventory account. Initial moneys to establish this account shall be deposited from such other department moneys as approved by the director. Transfers of moneys may be made from time to time, with approval of the director, between this account and the Federal Surplus Property Account, and between this account and the State Surplus Property Account, subject to the needs of each account.
- (d) Any moneys deposited into any of the three aforementioned surplus property accounts may be expended from time to time by the department for operation of the surplus property function including, but not limited to, repairs, salaries, rent, travel, acquisition of exchange and surplus property, and all other necessary operating expenditures providing, however, that on September 30 any unencumbered moneys remaining in the State Surplus Property Account, up to an amount equal to the operating expenses of the quarter ending on September 30, shall be set aside for use during the quarter beginning October 1 for the purposes heretofore stated and any remainder shall revert to the State General Fund. The Federal Surplus Property Account and the Surplus Federal Property Inventory Purchase Account shall be perpetual accounts, and funds therein shall not revert to the State General Fund.

Chapter 16A – Governmental Leasing

Section 41-16A-1

This chapter shall be known and may be cited as the Alabama Governmental Leasing Act.

Section 41-16A-2

It is hereby found and declared by the Legislature of Alabama that it is in the public interest that the state, political subdivisions, agencies, boards, commissions, and departments thereof, the various counties of the state, the various municipal corporations within the state, county boards of education, city boards of education, instrumentalities of any of the foregoing, and public corporations arising under or organized pursuant to any statute of the state shall have the flexibility to finance the acquisition, installation, equipping, and/or improvement of any eligible property that such governmental entity otherwise is legally authorized to acquire through the use of lease, lease-purchase, and/or installment-purchase financing. It is the intention of the Legislature by passage of this chapter that wherever, either by express grant or by implication, a governmental entity has the power and authority to acquire any eligible property by purchase, lease, lease-purchase, bailment, or otherwise, such governmental entity shall have the power and authority to acquire such eligible property through the use of any lease, lease-purchase, lease with option to purchase, installment-sale agreement or arrangement, or similar agreement or arrangement authorized by this chapter. Furthermore, it is the intention of the Legislature by passage of this chapter to authorize each such governmental entity, in its discretion, to enter into lease, lease-purchase, and/or installment-purchase contracts and arrangements, on such terms and containing such conditions, stipulations, and requirements as such governmental entity shall believe necessary in order to obtain such lease, lease-purchase, and/or installment-sale financing or as may be mandated by this chapter. This chapter shall be construed liberally in conformity with the intention stated in the foregoing provisions of this section.

Section 41-16A-3

For the purposes of this chapter, the following terms shall have the respective meanings provided by this section:

- (a) **ALTERNATIVE FINANCING CONTRACT.** A lease, lease-purchase, lease with option to purchase, installment-sale agreement or arrangement, or other similar agreement or arrangement.
- (b) **GOVERNMENTAL ENTITY.** The state; any political subdivision of the state; any agency, board, commission, or department of the state; any county; any municipal corporation; any county board of education; any city board of education; any instrumentality of any of the foregoing; the State Board of Education, acting for the respective educational institutions under its supervision; each public corporation that conducts one or more state educational institutions under its supervision; and any public corporation arising under or organized pursuant to any statute of the state.
- (c) **GRANTOR PARTY.** The lessor under a lease or lease-purchase contract, grantor under an installment-purchase contract, or other comparable party under any other alternative financing contract. Unless otherwise indicated by the context, each reference to grantor party shall include any assignee of the rights of the grantor party under the alternative financing contract.
- (d) **ELIGIBLE PROPERTY.** Any tangible personal property, or any interest therein, including without limitation any goods, supplies, materials, appliances, equipment, furnishings, and/or machinery, whether or not such items constitute fixtures.
- (e) **STATE.** The State of Alabama.
- (f) **SUBJECT PROPERTY.** The eligible property which is the subject of an alternative financing contract.

Section 41-16A-4

In addition to and not as a limitation upon other powers and authority, any governmental entity shall have the power and authority to execute, perform, and authorize payments under any alternative financing contract relating to any eligible property deemed by such governmental entity to be necessary, useful, or appropriate to one or more lawful purposes of such governmental entity. Any alternative financing contract may provide financing or a source of funds for any or all costs of acquiring (by lease, purchase, lease-purchase, or otherwise), installing, equipping, and/or improving any eligible property and for any or all associated costs, fees, and expenses (including, without limitation, finance charges).

Section 41-16A-5

- (a) Alternative financing contracts may be for such term, provide for such renewal or extension options, provide for such terminating events, provide for the payment of such rentals, purchase installments, purchase price, and other amounts, and contain such other terms, provisions, and conditions as the governmental entity shall deem appropriate, and without limitation to the generality of the foregoing, may contain terms and conditions substantially similar to any one or more of the following:
- (1) Provisions for the automatic renewal of the alternative financing contract for one or more successive periods unless affirmative action is taken by the governmental entity to terminate such alternative financing contract, and, if desired, specifying the nature of such affirmative action sufficient to terminate such alternative financing contract;
 - (2) Provisions for the payment by the governmental entity of interest at such fixed or variable rates of interest as such governmental entity shall deem appropriate or for the allocation of a portion of specified rentals or other payments to interest (which such allocation shall be deemed conclusively correct in the absence of bad faith);
 - (3) Provisions specifying the rights, remedies, obligations, and other liabilities of the parties in the event of a default or other failure to comply with the provisions of the alternative financing contract;
 - (4) Provisions designating whether the rights and/or obligations of the respective parties under the alternative financing contract shall be subject to assignment and/or delegation or specifying the terms and conditions under which such assignment and/or delegation shall be permitted; provided that, notwithstanding any other statute or law of the state to the contrary, in the absence of an express provision of an alternative financing contract prohibiting the assignment and/or delegation by the grantor party, such grantor party shall be permitted to assign its rights and/or delegate its obligations under such alternative financing contract without the consent or approval of the governmental entity;
 - (5) Provisions establishing which party to the alternative financing contract will retain title to the subject property and which party to the alternative financing contract will bear the risk of loss with respect to the subject property and provisions establishing the circumstances in which title to and/or risk of loss with respect to the subject property shall be transferred (including, without limitation, provisions establishing any applicable purchase price or formula for computing such purchase price);
 - (6) Provisions specifying the consequences of theft, casualty loss, destruction, condemnation of, or other loss affecting the subject property (in whole or in part), which provisions may specify that in the event of such a theft, casualty loss, destruction, condemnation, or other loss the governmental entity shall be required to pay a stipulated amount to the grantor party and that, upon payment of such stipulated amount, title to that subject property (if not already held by the governmental entity) will pass to the governmental entity;
 - (7) Provisions requiring the governmental entity or the grantor party to maintain casualty insurance with respect to the subject property and/or to maintain liability, workmen's compensation, and/or other

insurance coverages during the term of the alternative financing contract and specifying the application of the proceeds of such insurance;

- (8) If required by the grantor party or its assignee, covenants precluding or limiting the right of the governmental entity to acquire property comparable to the subject property within a specified time (not to exceed five years) after early cancellation or termination of the alternative financing contract or the failure of the governmental entity to exercise all available optional renewals or extensions on the basis of a failure to appropriate funds for payment of amounts due under such alternative financing contract;
 - (9) Covenants of the governmental entity to indemnify, hold harmless, and/or defend the grantor party with respect to any or all of the transactions contemplated by the alternative financing contract and/or in connection with the subject property;
 - (10) Provisions allocating responsibility for taxes, duties, assessments, and other impositions applicable to the alternative financing contract, any transactions contemplated by the alternative financing contract and/or the subject property;
 - (11) At the option of the governmental entity, a stipulation that such alternative financing contract shall terminate without further monetary obligation on the part of such governmental entity at the close of any fiscal year of such governmental entity in the event sufficient funds shall not have been appropriated or otherwise lawfully set aside to permit the governmental entity to satisfy its obligations under the alternative financing contract during the next succeeding fiscal year of such governmental entity, including during any renewal term under such alternative financing contract; and
 - (12) Provisions concerning the disposition of the subject property in the event of the expiration, cancellation, or termination of an alternative financing contract for any reason (including, without limitation, default by the governmental entity thereunder); including, without limitation, stipulations that upon any such expiration, cancellation, or termination of an alternative financing contract under the terms of which either (A) the governmental entity does not have an option to purchase or otherwise to acquire title to the subject property or (B) at the time of such cancellation or termination the governmental entity has not paid in full all amounts specified in such alternative financing contract in order to entitle the governmental entity to title to or transfer of title to the subject property, (i) such governmental entity shall no longer be entitled to claim any title or interest in the subject property as against the grantor party or any person claiming by, through or under the grantor party and the governmental entity shall, at its sole expense, deliver the subject property to the grantor party at the location specified in or pursuant to the alternative financing contract and in such condition as is specified in the alternative financing contract, (ii) in the event the governmental entity shall fail to return the subject property to the grantor party as described in clause (i), the grantor party shall have the right to take possession of the subject property, (iii) in taking possession of the subject property, a grantor party may proceed without judicial process if this can be done without breach of the peace or may proceed by action, and/or (iv) without removal, the grantor party may render subject property constituting personal property or fixtures unusable and may dispose of the same on the governmental entity's premises.
- (b) If an alternative financing contract contains the terms contained in subdivision (a)(11) hereof, such alternative financing contract shall be deemed to obligate the governmental entity thereunder only for those sums payable during the then current fiscal year of such governmental entity, including in the case of a renewable alternative financing contract for those sums payable in the individual fiscal year renewal term, and, if and to the extent any constitutional or statutory debt limit is applicable to such governmental entity, such alternative financing contract shall not be deemed to create a debt of such governmental entity within the meaning of any constitutional or statutory provision. Notwithstanding the foregoing, nothing in this section shall diminish the obligation of a governmental entity to pay all sums payable under such alternative financing contract during the then current fiscal year and to satisfy and discharge all obligations required to be performed under the alternative financing contract during the then current fiscal year of the governmental entity, including in the case of a renewable alternative financing contract those sums payable in the then applicable renewal term and those obligations required to be performed in the then applicable renewal term.

- (c) Unless otherwise prohibited by the constitution or statutes of the state, a governmental entity may specify that its obligations under any alternative financing contract shall be a general obligation of such governmental entity or that such obligations shall be payable solely from specified sources. A governmental entity may assign and specifically pledge for the payment of any of its alternative financing contracts constituting general obligations (as additional security therefore) or for the payment of any of its alternative financing contracts constituting limited obligations (as the sole source for the payment thereof), as the case may be, all or any portion of the funds derived from any one or more of the following sources that are not subject to previous pledges or covenants which would prevent the assignment and pledge hereby authorized, that are not required by the laws and constitution of the state to be devoted to other purposes:
- (1) The proceeds from any tax (including any ad valorem tax and any occupational, privilege, license, or excise tax) that such governmental entity is authorized to levy at the time of execution of such alternative financing contract;
 - (2) Any payments in lieu of taxes paid or payable to such governmental entity by other governmental units or by private persons or companies pursuant to contractual arrangements or laws in effect at the time of the execution of such alternative financing contract;
 - (3) The portion of any tax levied and collected by any other governmental entity that shall be apportioned and paid to such governmental entity pursuant to laws in effect at the time of the execution of such alternative financing contract;
 - (4) The income derived from the investment of moneys lawfully held by such governmental entity; and
 - (5) The revenues from any revenue-producing properties owned, leased, or operated by such governmental entity, including, without limitation thereto, any water system, sewer system, electric distribution system, or other utility.

The pledge of any pledged funds for the obligations of a governmental entity under an alternative financing contract pursuant to this chapter, together with any covenants of such governmental entity relating to such pledge, shall have the force of contract between such governmental entity and the grantor party or anyone claiming by, through, or under the grantor party. To the extent necessary, such pledged funds shall constitute a trust fund or funds which shall be impressed with a lien in favor of the grantor party and any person claiming by, through, or under the grantor party. In the event that more than one pledge should be made with respect to any pledged funds, then such pledges shall take precedence in the order in which they are made unless the proceedings making such pledge shall expressly provide that such pledge shall be on a parity with or subordinate to a subsequent pledge of such pledged funds. All alternative financing contracts for which any pledge authorized by this chapter may be made shall constitute preferred claims against that portion of the pledged funds so pledged, and shall have preference over any claims for any other purpose whatsoever.

- (d) The execution of and performance under an alternative financing contract by a governmental entity shall constitute the exercise of the borrowing power of the governmental entity. Alternative financing contracts shall constitute "other evidences of indebtedness" within the meaning and usage of Section 8-8-7, as amended.

Section 41-16A-6

Nothing in this chapter shall restrict governmental entities from executing contracts arising out of their proprietary functions.

Section 41-16A-7

The provisions of any alternative financing contract that are either permitted or required to be included therein pursuant to this chapter shall be valid and enforceable in accordance with their terms notwithstanding any other laws of the state to the contrary. Notwithstanding the foregoing, the laws of the state other than this chapter shall determine whether a particular alternative financing contract constitutes a lease or a sale of the subject property to the governmental entity with the retention by the grantor party of a security interest and shall determine the applicability of Articles 2, 2A, and/or 9 of Title 7, as amended, to such alternative financing contract.

Section 41-16A-8

Alternative financing contracts or any interest therein shall be a legal and authorized investment for banks, savings and loan associations, insurance companies, fiduciaries, and trustees.

Section 41-16A-9

To the extent of any conflict or inconsistency between any provisions of this chapter and any provisions of any other law as applied to alternative financing contracts entered into in accordance with this chapter, the provisions of this chapter shall prevail and control. Subject to the immediately preceding sentence, this chapter does and shall be construed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to other laws. Any governmental entity may use the provisions of any other law, not in conflict with the provisions of this chapter, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this chapter. Nothing contained in this chapter shall exempt any governmental entity from the requirements, if applicable, of Section 41-4-115, as amended.

Section 41-16A-10

Any grantor party and each person claiming by, through, or under a grantor party may conclusively rely on the legal authority of a governmental entity to enter into an alternative financing contract and to perform the obligations of such governmental entity thereunder.

Section 41-16A-11

It is hereby found, determined, and declared that the provisions of this chapter are declaratory of existing law and the provisions of this chapter shall not be construed adversely to the legality, authorization, or validity of any contract, agreement, or arrangement heretofore entered into by any governmental entity.

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