

# Legislative Program for 2008

*Editor's note: ACCA's membership adopted the following 2008 Legislative Program during its regular business session on Dec. 6, 2007.*

## PROPOSED LEGISLATION

### County Administration

#### A. County Modernization (Part 2)

Amend Alabama law regarding the bonding of local elected officials and employees to require bonding in an amount that more adequately protects the county from losses covered by the bond, and to provide that any forfeiture is paid to the entity suffering the loss for which forfeiture occurs. Further amend Alabama law to revise or repeal outdated Code sections in Title 11 that are no longer relevant or appropriate to the operation of county government in Alabama.

#### B. Health Care Responsibility Act

Repeal the Health Care Responsibility Act.

#### C. Funding for Juvenile Court Mental and Physical Exams and Treatments

Require the State of Alabama, or the appropriate state agency, to assume the cost of detention, physical exams, medical treatments, mental exams and mental treatments of juveniles when such are authorized or ordered by courts.

#### D. Property Damage Insurance

Amend the existing statute authorizing counties to create a self-funded liability insurance program to authorize the program to also provide property damage coverage and to provide coverage for county-related entities.

#### E. Court Cost Constitutional Amendments

Propose an amendment to the Alabama Constitution that would allow for the regulation of court costs, fees and commissions by legislative act in those counties that do not now have such a local constitutional amendment.

#### F. Public Officials' Retirement

Consolidate the existing local constitutional amendments on the abolishment of supernumeraries into one amendment that would abolish the supernumerary program and allow elected officials to participate in the Retirement Systems of Alabama under a

uniform set of guidelines and rules. Further, provide that any future local amendment on supernumeraries would be consistent with this consolidation amendment. In the alternative, authorize Alabama's county governments to make contributions to a defined contribution plan on behalf of those elected officials not authorized to participate in the Employee Retirement System or the supernumerary system.

#### G. Collection of Taxes

Authorize cities and counties to pursue legal remedies to collect the proceeds of any taxes they receive if the agencies responsible for collection decline to pursue such remedies.

#### H. Lease-Purchase Agreements

Authorize counties to lease-purchase jails and other public buildings for periods not to exceed 30 years.

#### I. Fees for Use of Public Property

Authorize Alabama's county governments to enforce regulations regarding use of county property and to charge a reasonable fee for the use of public property by private persons, organizations or corporations.

#### J. Bid Law Amendments

Amend Alabama law to authorize counties to make purchases from the second lowest bidder in the event that, following an award to the lowest responsible bidder, the lowest bidder refuses to provide the item to the county at the price and under the terms of the original bid. Further amend Alabama law to remove the requirement that a bidder submit a bid bond on items in excess of \$10,000 and provide instead that the awarding authority may require a bid bond at its discretion.

#### K. Local Constitutional Amendment Election

Amend Alabama's Constitution to create a secondary method to allow for county-only votes on those proposed local constitutional amendments that receive negative votes from no more than 10 percent of the membership of the House of Representatives or Senate.

#### L. Employee Benefits Trust Fund

The Association supports legislation that allows for the creation of trust funds to finance the cost of providing post-employment benefits, such as health care, to county retirees provided county participation in such a trust fund is permissive.

## ENVIRONMENT & LAND USE

### A. Regulation of County Development

Grant counties the authority to call a local referendum on the issue of planning and zoning in the unincorporated areas of the county and to implement planning and zoning programs in the areas that approve such referendum. Such local election may be called countywide or only within certain voting districts.

### B. Contract with Regional Solid Waste Authorities

Amend Alabama law to allow county governing bodies that are members of Regional Solid Waste Authorities to contract with those authorities without submitting such contracts to the bid process.

### C. Litter Enforcement

Amend Alabama law to authorize the county license inspector or solid waste officer to enforce Alabama's litter laws and to issue citations against violators of those laws.

### D. Collection of Solid Waste Fees

Amend Alabama law regarding mandatory-participation-solid-waste programs to improve the counties' ability to enforce their programs by setting up a better system for collection and enforcement, including notice to the violator and the issuance of citations for noncompliance, and by clarifying the fines and penalties to be issued when a person is found in violation of the program's requirements.

### E. Solid Waste Exemptions

Amend Alabama law to make it clear that the exemption from solid waste fees for those persons whose sole source of income is Social Security benefits applies only when cities or counties vote to make the participation in such collection programs mandatory for all citizens.

### F. Reuse of Beverage Containers

Amend Alabama law to require that all beverages sold in Alabama be packaged in containers that would carry a deposit in order to reduce the amount of litter in the state, to reduce the waste stream entering Alabama landfills, and to encourage the reuse of beverage containers.

## **G. Landfill Local Approval Process**

Amend Alabama's law related to the local approval process for landfill applications to better clarify the roles of the county commission and regional planning commission in the process, and to require the regional planning commission to prepare and submit a local impact report prior to consideration of the application by the county commission.

## **H. Litter Enforcement Study Commission**

Establish a broad-based commission to evaluate the current methods for enforcing Alabama's litter laws and to offer suggested legislative changes or community-based programs to enforce and strengthen Alabama's existing laws and to reduce the amount of litter, trash and rubbish being deposited on public and private property within the state.

## **FINANCE & TAXATION**

### **A. Business Licenses**

Amend Alabama law to simplify and standardize the process for purchasing business licenses on the county level to reduce the administrative burden on both county officials and taxpayers and to improve procedures for compliance and enforcement of the business licenses.

### **B. Ad Valorem Taxes for County General Fund, Roads and Bridges, Public Building and Local School Purposes**

Authorize county commissions through a constitutional amendment to levy ad valorem taxes for county general fund, road and bridge, public building and local school purposes.

### **C. Financial Self Governance**

Authorize county commissions to levy any taxes, not prohibited by the constitution, with the proceeds being distributed as provided by the county commission. Provided, however, that the authority to levy such taxes could not be exercised at any time between the date of the political party primary election and the beginning date of the next term of office in any year during which a member of the commission is to be elected.

### **D. Deed and Mortgage Taxes**

Increase the taxes collected for the recording of deeds and mortgages with proceeds being used for county general fund purposes.

### **E. Joint Transaction Tax Audits**

Amend Alabama law to authorize the  
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Alabama Department of Revenue and Alabama's local governments to enter into agreements for the conducting of joint audits of taxpayers subject to state and local sales, use, tobacco, leasing, rental, gasoline and other transaction taxes.

### **F. Publication of Public Documents**

Amend Alabama law to provide that any requirement to publish county documents or records in a newspaper can be satisfied by making such documents available to the public via the Internet or other means.

### **G. Equalization of Local Sales Taxes**

Authorize county governments to equalize local sales tax rates in the unincorporated areas at the rate established in the largest municipality in the county.

### **H. Sales Tax for County General Fund Purposes**

Amend Section 40-12-4 to provide that not more than 25 percent of the proceeds of any tax levied under the authority granted in this section can be used for county general fund purposes. Further provide for municipal governments that endorse the tax levy to receive a portion of the tax revenue collected from within their municipal borders.

### **I. Lease Taxes**

Authorize county commissions to levy local lease taxes with the proceeds being used for county general fund purposes.

### **J. 10-Mil School Tax Amendment**

Amend the constitutional provision passed in 2006 requiring all school districts to have a minimum of 10-mils in ad valorem tax for public education to allow for the county to retain the administrative costs paid on certain taxes authorized prior to ratification of this amendment, and to address the unintended potential decrease in ad valorem taxes paid in a school district upon the expiration of a tax levy in existence at the time of ratification of the amendment.

## **JUSTICE & PUBLIC SAFETY**

### **A. Inmate Assignment**

Amend Alabama law to provide that no state inmate may be "assigned" to the county jail without the approval of both the county governing body and the sheriff of the affected county. Further, to ensure that the provisions of Sec. 14-3-30 regarding the payment of medical care would still apply to any state inmate assigned to the county jail.

### **B. Reimbursement from State for Feeding of Prisoners**

Amend Code of Alabama to increase from \$1.75 to \$3 the amount paid to counties by the State of Alabama for feeding of prisoners.

### **C. Financing for Construction and Operation of Jails and Other Necessary Public Buildings**

Amend the Code of Alabama to provide authority for counties to levy certain taxes to finance the construction and operation of jails and other necessary public buildings.

### **D. Service of Process**

Increase the fees distributed to counties for service of process with the resulting revenue distributed to the county's general fund budget earmarked for the operation of the jail. Further, authorize counties to contract with private firms for the purpose of serving court and court-related documents.

### **E. Responsibility for Juveniles**

Require the Alabama Department of Youth Services to assume the financial responsibility for juveniles who have been sentenced to the custody of the State of Alabama.

### **F. Cost of Incarceration**

Amend Alabama law to provide, in addition to all other penalties, non-indigents who are convicted of felonies shall be required to pay one-third of the cost of their incarceration in the county jail.

### **G. Regional Jails**

Remove the requirement in Alabama law that regional jails can be established only with the approval of the sheriffs in the counties participating in the regional jail project.

### **H. Transfer of Inmates to State Prison System**

Amend Alabama law to provide that any sheriff of the state is authorized to deliver to the custody of the Alabama Department of Corrections any state inmate being housed in the county jail if the Department is in receipt of the court documents regarding the inmate's conviction and sentencing and at least 10 days have expired following the sheriff's request for the Department to accept such inmate. In such cases, the Commissioner of the Department of Corrections is prohibited from refusing to accept the delivered inmates.

### **I. Privatization of County Jails**

Amend Alabama law to authorize counties and the State of Alabama to enter into contracts with private firms to construct and operate detention facilities. Such legislation

must, however, provide proper liability protection for Alabama's county governments.

## **J. Inmate Medical Care**

Amend Alabama law to require the Alabama Department of Corrections to reimburse counties for the cost of medical care within 30 days of receipt of a reimbursement request and further provide that interest will be paid if payments are not timely made.

## **K. Salary of Sheriff**

Amend Alabama law to provide a state salary supplement to each county in an amount equal to the state-established minimum salary for the office of sheriff.

## **L. Funding for Emergency Management**

Establish a statewide funding source for emergency preparedness and response activities in Alabama's counties to provide local funding for equipment, such as warning devices, mitigation projects, cleanup of disasters that do not qualify for federal funding, and special projects.

## **M. Sex Offender Notification Statute**

Amend Alabama's sex offender notification statute to provide adequate time and procedures for a state inmate to secure an appropriate residence following release from prison such that he or she can avoid "re-arrest" upon release for failing to comply with the statutory requirement to provide an appropriate address to authorities for the purpose of community notification. Further amend the statute to provide that, in the event re-arrest is necessary, the inmate will be delivered to and housed in the county jail in the county where the convict was originally sentenced.

## **N. Interstate Fresh Pursuit**

Establish a procedure to allow law enforcement personnel from another state to enjoy Alabama's immunity and liability limitations when pursuing a suspect travelling into the state during the pursuit, provided that the other state offers that state's immunity or liability protection to Alabama's law enforcement personnel in the event that they enter into the other state during pursuit of a suspect.

## **O. ACJIS Network Sharing**

Establish the authority for the Alabama Criminal Justice Information System to share its bandwidths or communication tunnels with local 911 systems to allow local 911 systems to interact with one another in ways to allow one system to back up another

system during a disaster or other emergency limiting the local system's capabilities.

## **PUBLIC WORKS & RURAL TRANSPORTATION**

### **A. Assessment of Property Owners for Public Improvements**

Authorize counties to assess adjacent property owners for the cost of certain public improvements.

### **B. Rural Access Program**

Amend Alabama law to provide that \$25 million of the annual proceeds of the current statewide tax on diesel fuel be allocated to the Rural Access Program created by Act 95-396.

### **C. Fines for Overweight Vehicles**

Amend Alabama law to provide that the proceeds of any fines collected from persons convicted of driving overweight vehicles on county roads and bridges be distributed to the county's general fund. Further, provide that such fines for violating weight restrictions shall escalate for vehicles that are excessively overweight and a voucher system be established to allow certain vehicles with valid access problems the authority to carry state-road weight limits on county roads.

### **D. Collection and Enforcement of Motor Fuel and Gas Taxes**

Amend Alabama law to shift the collection and enforcement of Alabama's highway user fees from the Department of Revenue to the Department of Transportation, to require the collection of Alabama motor fuel and gasoline taxed by those entities that refine and provide motor fuels to wholesale distributors, and to provide that the current distribution of the proceeds from these taxes remain in place.

### **E. Reimbursement for Infrastructure Expenditures**

Require municipalities to reimburse county governments for any infrastructure expenditures that have been undertaken in areas that are annexed into the city limits. Such reimbursement should be calculated according to the useful life remaining on the infrastructure being annexed and should be paid during the first three years following the annexation.

### **F. Funding for Rural Road Safety**

Amend Alabama law to provide additional funding for counties to better address the growing safety problems on Alabama's rural roads and bridges by authorizing counties to

levy a local gasoline and diesel fuel tax to be expended for resurfacing, restoration and rehabilitation of rural county roads and bridges.

### **G. Sales Tax Exemption for Contractors**

Amend Alabama law to ensure that the sales tax exemption for materials purchased by contractors for use in construction contracts for county government is reinstated.

### **H. Retainage**

Amend Alabama's public works law to remove the prohibition against retaining a portion of payments due contractors pending final completion in contracts involving the Alabama Department of Transportation.

### **I. Funding for Continuing the County Bridge Program**

Provide funding to continue the Garvee Bond county bridge rehabilitation program to complete the work started under this successful project. Estimates indicate that there are still about 1,750 county bridges in need of replacement.

### **J. Indexing of Statewide Gasoline and Motor Fuel Fees**

Amend Alabama law to link the rate of gasoline and motor fuel fees to a ratio between the amount of gasoline sold in Alabama and the cost of road construction, using a prior year as the base year and adjusting the rate of the statewide fees over a five-year period, and annually thereafter.

### **K. Rental and Repair of Heavy Equipment**

Amend Alabama law to increase the bid law exemption amount for the rental of off-highway heavy equipment from \$5,000 per rental per month to \$10,000 per rental per month, and increasing the total monthly amount for rental from \$15,000 to \$30,000. Further amend Alabama law to increase the exemption for repair of off-highway heavy equipment from \$15,000 per repair to \$30,000 per repair.

## **POLICY STATEMENTS**

### **County Administration**

#### **I. Economic Development**

Because the Association recognizes the importance of improving and enhancing the economic status of Alabama, we support efforts recognizing the important role played by county government in the overall economic development of the state. ACCA opposes economic development efforts or

initiatives that reduce county revenues or authority, and that may deprive county government of any of the benefits of improved economic development.

## **2. Constitutional Reform and/or Revision**

The Association strongly supports the revision of Alabama's century-old Constitution and pledges to be an active participant in the growing effort to update it. Specifically, ACCA believes any revision shall include the granting of self-governance authority to county government and must not diminish existing county authority in any way that would impede or interrupt the orderly delivery of county services. To be effective, constitutional reform efforts must first focus on the method to be used to reform our constitution, not on the specific changes that might be made to the document itself. For this reason, the Association urges state elected officials and community leaders to work toward an agreement on the method to be used to reform our Constitution, reserving discussion on the specific constitutional changes for later in the process.

## **3. Property Rights**

The Association recognizes the rights of individual property owners to use and enjoy their property without unreasonable interference from government. ACCA supports the position that government must engage in certain activities with respect to property that are intended to protect the health and welfare of all citizens. ACCA also recognizes that the federal and state governments often require local governments to perform many functions respecting land. Therefore, ACCA opposes any legislation that would unnecessarily and unreasonably impede the ability of county government to protect the health, safety and welfare of its citizens, and to carry out its responsibilities as required by the state and federal governments, or would result in civil action against counties when carrying out such duties.

## **4. Civil Service for County Employees**

ACCA supports legislation authorizing counties to establish and adopt civil service systems covering all county employees, but opposes legislation that would require the creation of such systems for any segment of county employees unless it has been requested by an appropriate resolution from the governing body.

## **5. Supernumerary Laws**

The Association opposes the creation of new supernumerary programs and the amendment of the existing supernumerary

laws that serve to increase the benefits provided to former elected officials or otherwise cause the programs to be more of a financial burden on the counties.

## **6. Administration of Federal Assistance Programs**

ACCA opposes any legislation or administrative rule changes that would require counties to provide any funding or unfunded administrative functions for any current or future federal assistance programs, such as Medicaid, Food Stamps or Aid to Families with Dependent Children.

## **7. Collective Bargaining**

The Association opposes the authorization of collective bargaining for public employees.

## **8. Insurance Coverage**

The Association opposes any legislation that would authorize any county public official to purchase liability or workers' compensation insurance for themselves or employees working under their supervision.

## **9. Boards of Registrars**

ACCA supports the position that the statutes, with regard to the appointment of members of the Boards of Registrars, should be amended to better ensure the appointment of qualified persons to improve the election process in Alabama.

## **10. Abolition of Alabama Alcoholic Beverage Control Board**

ACCA opposes any attempt to abolish the Alabama Alcoholic Beverage Control Board or remove the state from the retail liquor business unless revenues that would have been distributed to counties from ABC Board profits or related taxes are replaced.

## **11. Recall of Elected Officials**

The Association opposes any legislation that would allow for the recall of any elected officials in Alabama.

## **12. Examiners of Public Accounts**

The expertise provided by the Examiners of Public Accounts is vitally important to county government in Alabama. ACCA opposes any legislation that would remove the requirement that county financial records be audited by the Department of Examiners of Public Accounts. Because counties collect taxes and provide the administrator of services on behalf of the State of Alabama, the Association believes the state has a vested interest in assuring the financial integrity of these county offices. For this reason, the Association opposes any efforts to require counties to hire private auditing firms or to reimburse the State of Alabama

for the conducting of audits of county financial transactions.

## **13. Federal Block Grants**

ACCA supports an equitable distribution of federal block-grant monies that takes into account the needs of the local community and the administrative costs necessary to deliver the services on the local level. ACCA opposes mandating additional responsibilities through the distribution of block grants unless the grants are substantial enough to cover the additional costs to county government.

## **14. Initiative and Referendum**

The Association opposes any effort to establish a procedure for citizens to initiate the repeal or amendment of actions of the county governing body by petition or referendum or that does not include restrictions on the matters that can be the subject of initiative and referendum.

## **15. Utility Deregulation**

ACCA opposes legislation to deregulate Alabama utilities unless such legislation provides for revenues currently earmarked for county governments to remain unchanged and for growth revenues to be divided as they would have been divided had deregulation not occurred.

## **16. Education Compensation**

The Association opposes mandated increases in county-paid compensation for employees who complete voluntary education programs.

## **17. Adoption of Emergency Rules by State Agencies**

ACCA strongly opposes the adoption of emergency rules by state agencies unless a significant emergency exists that can be corrected only by the adoption of the rule in question. The Association further calls on state agencies to utilize the statutory procedure for the adoption of all rules to ensure public comment and input of Alabama's taxpayers and local governments.

## **18. Operation of State Judicial System**

The operation of Alabama's Unified Judicial System is the responsibility of the State of Alabama. ACCA strongly opposes any efforts to require counties to assume the financial responsibility of the operation of the court system on the county level and encourages all counties to refrain from voluntarily assuming any portions of such costs.

## **19. Full-Cost Accounting**

The Association recognizes that county governing bodies should evaluate and

consider the actual cost of providing the various services it provides to the citizens. However, ACCA opposes efforts to require counties to determine such costs and to make those costs available to private companies or organizations.

## **20. Condemnation**

The Association supports the utilization of condemnation powers by county governments in order to provide public services to Alabama's citizens. ACCA opposes efforts to enact new constitutional limits on the legitimate utilization of condemnation powers.

## **21. Poll Worker Compensation**

The Association opposes the enactment of legislation that would increase the compensation paid to local poll workers unless such increase is paid by the State of Alabama.

## **22. Self-Governance**

The passage of the Health and Safety Powers Act provides counties with an excellent opportunity to exercise self-governance in abating certain nuisances within the county. However, this new act has limited application. Therefore, the Association supports any further legislative efforts to grant counties additional self-governance powers in other important areas of county concern.

## **23. Open Meetings Law**

Alabama's Open Meetings Law was rewritten in 2005 following extensive negotiations between Alabama's counties, the Alabama Press Association, and other organizations. The new law resulting from those negotiations is now fully operational in the state and working for both public bodies and the citizens of this state. The Association believes the Open Meetings law should remain in effect as passed by the Alabama Legislature in 2005. Therefore, the Association will oppose any efforts to amend this law.

## **24. Open Records Law**

The Association opposes any legislation to rewrite Alabama's Open Records law in a manner that would create unnecessary administrative burdens on governmental entities, allow for frivolous lawsuits to be brought against governmental entities resisting the release of documents exempted from the open records law, or provide for fines or penalties against public officials acting in good faith. Additionally, any legislation amending current law must include liability protection for the county and its officials and employees.

## **25. Illegal Immigrants**

The Association supports all reasonable efforts to ensure that persons employed in Alabama are legal residents of the United States and that governmental services are provided only to those legally entitled to same. However, ACCA opposes any legislation that would unduly burden the county or other employers in determining the legal status of applicants or existing employees, or that would impose a fine or penalty for the unintentional employment or provision of service to illegal immigrants.

## **26. Protection of Social Security Numbers**

Legislation has been introduced in recent years to protect against the disclosure of Social Security numbers in the release of public documents. While the Association does not oppose efforts to protect this information from release, any procedures established should be uniform, must not unduly burden the administration of government services, and must provide liability protection to counties and other governmental entities for good faith actions. ACCA recommends that the legislature work toward dealing with this important issue in a uniform and comprehensive manner and ensuring that any legislation passed not create an undue administrative burden on governmental entities.

## **27. Retiree COLAs**

The Association supports periodic increases for retired governmental employees provided language is included to ensure that the county commission has the discretion whether to grant an increase to county retirees. The Association also recommends that future legislation in this regard include language to allow the county commission to grant an increase in an amount less than the full cost of living increase granted to retired state employees.

## **28. Fines Against Public Officials**

The Association opposes legislation imposing fines against public officials, unless the fines are only against those officials who willfully and knowingly fail to carry out their duties.

## **29. Center for Rural Development**

The Association supports the various state-level efforts to address the problems with attracting new industry in the rural areas of the state. However, these task forces cannot properly understand and address the many problems facing these areas without significant input from their local leaders. ACCA urges those organizing any efforts to promote rural industrial and economic development to ensure that all

such efforts include strong representation from local officials and community leaders in the rural areas that will be directly affected by the programs created and the decisions made.

## **30. Amendments to Alabama's Bid Law**

The Association supports amendments to Alabama's bid law that will relieve the administrative burden of complying with the time-consuming bid process. ACCA also supports amendments that will further ensure that local government receives the best price available on the open market. To achieve these goals, the Association will oppose legislation increasing the threshold amount for requiring competition beyond \$10,000, as well as any legislation establishing a "tiered" bid system that would establish one threshold for receiving informal bids and a separate threshold for formal bids.

## **31. Purchase Price of Property**

ACCA supports legislation that would require the actual purchase price of property to be provided by the purchaser when transferring title.

## **32. Investment in County Buildings**

The Association supports legislation that would authorize the Retirement Systems of Alabama to invest in the construction of new county buildings and public facilities by providing funding for such projects or providing lease-purchase agreements with county governments.

## **33. Cemetery Authorities**

ACCA does not oppose legislation authorizing the creation of authorities or organizations designed to restore, rehabilitate and maintain cemeteries located on private property, provided that such legislation does not mandate that the county create such authority or participate in the restoration, rehabilitation, or maintenance of private cemeteries; does not require or authorize counties to enter private property for these purposes; and does not require or authorize any expenditure of public funds on private property or for private purposes in violation of Alabama's constitution.

## **35. Internet Voting**

Legislation has been proposed to allow members of the military and their families serving overseas to vote an absentee ballot via the Internet. ACCA believes it is important that any process for voting via the Internet have proven safeguards protecting the integrity of the casting of votes. Additionally, the Association has concerns

about authorizing some, but not all, absentee ballots to be cast via the Internet. In the event that a process is established to allow for Internet voting, the Association takes the position that all costs associated with creating and maintaining the system shall be borne by the state. Additionally, ACCA takes the position that the absentee election manager function works well as presently established in Alabama law, and that even in the event changes are made in the procedures for absentee voting, all absentee election manager functions should remain with the circuit clerk.

### **36. Help America Vote Act**

The Association opposes any efforts by the U.S. Congress to amend the Help America Vote Act, particularly if such amendments would require states to replace voting equipment purchased and procedures implemented by the state to come into compliance with the requirements of the original act.

### **37. Absentee Election Manager**

Alabama law charges certain public officials with the responsibility of serving as the Absentee Election Manager unless he or she is on the ballot for re-election. In such cases, the local presiding Circuit Judge can appoint another person to serve in this capacity. The Association urges the Alabama Legislature to prohibit the payment of additional compensation to those public officials and/or public employees who carry out the absentee election manager functions during their normal working hours.

## **ENVIRONMENT & LAND USE**

### **1. Pre-Zoning of Property**

County governments do not possess the ability to regulate the use of land in the unincorporated areas of the state. Municipalities are authorized to conduct land use “planning” activities within their police jurisdictions, but cannot impose zoning regulations on such land. The Association opposes legislation that would authorize municipalities to exercise zoning powers outside their corporate limits. However, ACCA does not oppose “pre-zoning” of property in an area being considered for annexation in order to provide property owners in that area with some assurance of proposed zoning plans in the event annexation does take place.

### **2. Solid Waste Laws**

ACCA opposes any change in the solid waste laws that would require counties to provide a program for solid waste collection and disposal. Any changes in the existing law should clearly set out the enforcement

responsibility of the Alabama Department of Public Health, the State Department of Environmental Management, the various district attorneys and the local law enforcement officers, and should provide adequate funding for any solid waste programs mandated upon local governments.

### **3. Scrap Batteries**

ACCA supports a statewide program to deal with the collection and disposal of scrap batteries, including the levying of a handling fee, provided that any resulting revenue is allocated to the entities responsible for the collection and disposal of such scrap batteries. Such legislation should also address the cleanup of existing piles of scrap batteries.

### **4. Storm Water Permits**

County government strives at all times to perform highway construction and maintenance activities in accordance with state and federal environmental standards and best practices, and supports efforts to improve and protect these standards and practices. However, ACCA opposes requiring counties to obtain storm water permits prior to county road work activities, particularly when requiring such permits could delay and, as such, hinder county efforts to provide a safe rural transportation system.

### **5. Statewide Recycling Program**

It is vitally important that the State of Alabama focus attention on reducing the flow of solid waste into landfills. The most effective way to reduce the waste stream is to recycle items that are currently being landfilled. For this reason, ACCA strongly encourages the Alabama Legislature to expand the state’s existing recycling program, which is funded exclusively with federal money.

### **6. Tipping Fees to Fund Solid Waste Activities**

The Association does not oppose legislation that would levy a reasonable statewide tipping fee on all materials disposed of in landfills in the State of Alabama, provided that the resulting revenue is earmarked for enforcement activities by the Solid Waste Division of the Alabama Department of Environmental Management, and that all landfills either pay the fee or pay for the costs of the inspection services provided by ADEM.

### **7. Local Approval of Rock Quarries and Other Mining Operations**

Current Alabama law requires “host” government approval of any applications for

the establishment or expansion of solid waste landfills in Alabama. Because counties do not possess comprehensive land-use powers, it is very difficult for county governments to exercise this power without needless and costly litigation. ACCA opposes legislation that would require a similar host-government approval process for the location of rock quarry operations and other mining operations unless such authority is part of comprehensive legislation on planning and zoning authorities for county government.

### **8. Scrap Tire Law**

ACCA opposes any legislation that weakens Alabama’s current scrap tire laws, and supports the strong enforcement of the current law, including remediation of existing illegal scrap tire piles.

### **9. Solid Waste Act**

ACCA supports legislation that would better define the roles of the Alabama Department of Environmental Management, Alabama Department of Public Health, local governments, and regional planning commissions with regard to all aspects of solid waste management, provided such legislation does not alter the county’s current authority and responsibility. Furthermore, the Association welcomes the opportunity to participate in discussions with any and all interested groups about how best to amend the current statute and procedures.

### **10. Litter Law Enforcement**

The problem of litter covering Alabama’s roadways continues to grow with no concerted effort to address the problem, despite recent changes in the law to increase fines and improve enforcement avenues. County government believes it is time for law enforcement, at both the state and local level, to aggressively enforce Alabama’s litter laws. Therefore, ACCA supports the creation of a task force of state, local and law enforcement leaders to develop better programs to clean up Alabama’s roadways and to recommend legislation as needed to further the objectives of a litter-free Alabama. Additionally, ACCA encourages state and local governmental entities and law enforcement to more aggressively pursue enforcement of the current litter laws.

### **11. Cell Tower Regulation**

ACCA does not oppose legislation establishing reasonable standards and criteria for the regulation of the placement of cell towers in the unincorporated areas of the county, provided such regulation is permissive and the standards and criteria do not overly restrict the ability of the county to reasonably regulate the placement of such towers where such authority is exercised.

## 12. Landfill Application Approval

The Association does not oppose legislation providing that the failure of the local governing body “to act on” a landfill application within 90 days of the application will be deemed a denial of the application, provided the legislation clearly defines what constitutes a failure to act within the meaning of the statute.

## 13. Solid Waste Flow Control

The ability to control the collection and disposal of solid waste from each community is the key to the delivery of cost-effective solid waste services on the local level. Therefore, the Association supports granting each county commission the authority to control the flow of solid waste within its jurisdiction.

## FINANCE & TAXATION

### 1. Education Funding

The members of the Association of County Commissions of Alabama are aware that there is a great need to increase funding for education in Alabama, both locally and statewide. We are likewise aware that county governing bodies do and should assume a role in securing needed local support for education. Because of their varied financial responsibilities, the county commission members are aware that there are other functions of government also in need of increased local funding. County commissions should have the authority to increase local taxes for the purpose of generating revenues for general county purposes as well as for education purposes. If the counties were granted authority to raise taxes for educational purposes, the counties must also be granted the authority to address the financial needs of the other general county functions. In this regard, the Association calls on the appropriate elected officials and leaders of affected organizations to meet and confer with the ACCA in order to develop sound solutions to the financial needs of county government and elementary and secondary education.

### 2. Tax Reform

ACCA recognizes there is a need to reform many of Alabama’s tax laws and any broad-based reform in the tax laws would affect revenues and authority of county government. The Association will support only those reform measures that benefit or are neutral to counties financially and do not diminish any taxing or spending authority of county governing bodies. The Association also takes the position that any tax reform effort should have as a major component authority for county governing bodies to levy taxes at their discretion. Additionally, the Association

opposes any tax reform measures that retard or stop the growth of any revenues of counties from any source.

### 3. Preempting Local Tax Sources

ACCA opposes efforts to fund state needs by placing additional taxes on sources that are traditionally shared by state and local government or that are traditionally local sources. Further, ACCA opposes increases in the rate of taxes that are “shared” between state and local government unless the proportion of those taxes allocated to county government is included in the increased rate.

### 4. Mandated Expenditure of County Revenues (General Laws)

ACCA strongly opposes any efforts by the Alabama Legislature, the U.S. Congress, the judiciary or administrative officials on the state or federal level to mandate county services or to mandate an increase in the expenditure of county revenues without providing the additional revenues for such expenditures. Further, the Association strongly encourages the Alabama Legislature to strictly follow the provisions of the constitutional provision restricting the enactment of unfunded mandates.

### 5. Mandated Expenditure of County Revenues (Local Laws)

The Association supports the position that should any local legislation be introduced in the Alabama Legislature mandating an increase in expenditures of county revenues, such legislation be first approved by the governing bodies of the affected counties.

### 6. Compensation Legislation

The Association opposes any general legislation providing increased compensation for county officials or employees unless such legislation provides additional revenue sufficient to fund such compensation or unless such compensation will not take effect until approved by resolution of the respective county commission.

### 7. Marriage, Fishing and Hunting Licenses

ACCA supports the position that counties should receive an equitable portion of any increases in fees for marriage, fishing and hunting licenses.

### 8. Public Gaming

Any legislation calling for the legalization of a statewide lottery or casino gambling in Alabama should provide that an equitable portion of the resulting tax revenue be distributed to counties. Additionally, any

legislation leveling a statewide tax on currently-legalized gambling should include language to allocate a portion of the resulting revenue to the county governing body where the facility is located.

### 9. Change in State Fiscal Year

The Association supports efforts to improve the efficient operation of state government. However, efforts to alter the state’s fiscal year would create an enormous amount of confusion, duplication of effort and expense on county government in Alabama. Therefore, the Association opposes efforts to alter the beginning date of the state’s general fund budget from the current date of Oct. 1 of each year.

### 10. Legal Fees Against Counties

ACCA opposes any efforts to amend Alabama law to allow parties to initiate legal action against county government with the possibility that the party can collect attorneys’ fees from the county government should it be found to have acted improperly. ACCA also opposes any administrative action by state agencies or departments that result in county governments being held responsible for legal expenses.

### 11. Collection of Local Taxes

ACCA opposes efforts to repeal or restrict the authority county governing bodies currently have to collect or contract for the collection of taxes on the local level. However, the Association also opposes legislation that would subject local tax collectors and/or auditors to regulations or requirements not applied to the Alabama Department of Revenue. Additionally, the Association opposes the amendment of the 1998 Local Tax Procedures and/or the 1998 Local Tax Simplification Act.

### 12. Earmarking of County Revenue

ACCA strongly opposes the earmarking of county revenue by either general or local act. Decisions on the expenditure of local tax revenue should be made by the county governing body to ensure maximum public input on the local level. The local legislative delegation is not an entity authorized by law to appropriate expenditures of public funds; therefore, any earmarking of county revenues should only be by legislative act.

### 13. Earmarking of State Revenue

The Association urges the Alabama Legislature to be cautious in any effort to alter the state’s practice of levying taxes for specific purposes. Because of Alabama’s limited resources, any such effort will place at risk many important government services.

#### **14. Tax Exemptions**

ACCA encourages the legislature to reject any additional exemptions from local sales, use, lodgings, rental or motor fuel taxes. Further, the Association strongly supports the repeal of existing state-imposed exemptions from local taxes.

#### **15. Omnibus Salary Statute**

ACCA opposes efforts to repeal or amend any portion of the 2000 statute on compensation for elected officials.

#### **16. Sales Tax on Food**

ACCA opposes legislation exempting food from sales taxation unless such legislation provided county governments with the authority to increase local tax rates to recover the loss in revenue. The Association also opposes such legislation if it prevents future local sales taxes on food products.

#### **17. Coal Severance Taxes**

ACCA strongly opposes the repeal or reduction of the state coal severance taxes.

#### **18. Streamline Sales Tax Agreement**

Although the required number of states have adopted the standardized sales tax procedures and regulations provided in the Streamline Sales Tax Agreement, there is still no federal law that requires remote (primarily Internet-based) retailers to collect and remit sales taxes to the individual participating states. Without such federal requirement, the streamline project remains nothing more than a system for retailers to voluntarily remit sales taxes to Alabama and its local governments.

Should Alabama elect to participate in the streamline project, massive revisions of the state's sales tax code will be necessary. Additionally, it will be necessary to substantially alter the current procedure for collecting and enforcing sales taxation on the local level in Alabama. The changes are not justified as long as the streamline system remains voluntary. Therefore, ACCA opposes the adoption of the streamline sales tax agreement by the state unless and until the U.S. Congress has enacted a federal law requiring remote sellers to collect and remit sales taxes to those states participating in the project. Further, ACCA encourages its Congressional delegation to support the federal bill requiring payments by Internet retailers only if enforcement of local sales tax collections can be carried out by local governments.

#### **19. Salaries of State Judicial and Law Enforcement Officials**

The Association strongly opposes any efforts to repeal the statutes that shifted to the State of Alabama the financial responsibility for the salaries of juvenile probation officers and repealed the local salary supplements paid by counties to district and circuit judges and district attorneys.

#### **20. Tennessee Valley Authority**

ACCA recognizes that the current distribution of the payments-in-lieu-of-taxes made by the Tennessee Valley Authority includes allocations to some counties not served by the TVA. This distribution procedure was established when the payments were originally made to the state and should be preserved unless the lost revenue can be replaced with funds expected to grow at a rate similar to the TVA funds now received by the non-TVA counties.

#### **21. Tax Abatements and Refunds**

The use of tax abatements and refunds as a means to attract industrial prospects poses many negative consequences for county governments. Because the taxes most often used as the source of such abatements – ad valorem and transaction taxes – form the basis for the funding of county government, it is difficult for counties to overcome the financial hardship caused by such abatements. For this reason, ACCA opposes legislation that would liberalize the current statutes in this area unless such new or expanded abatements or refunds are approved by the county governing body.

#### **22. Reappraisal of Property**

ACCA strongly opposes any legislation that would restrict the annual reappraisal of property for ad valorem tax purposes. The Association will also oppose any efforts to restrict or prohibit annual reappraisal by local act or local constitutional amendment. In addition to opposing legislation, ACCA opposes any effort by the Administration or Department of Revenue to provide by Executive Order or agency rule that the move toward annual reappraisal in all counties be suspended or repealed.

#### **23. Reclassification of Property**

Alabama's ad valorem tax statutes utilize a classification system that applies varying tax rates based on the property's use. This system has been criticized by various groups that advocate the shifting of various properties, including property owned by utilities and some motor vehicles, into a classification that would lower the owner's tax liability. ACCA opposes legislation that would make piecemeal changes in the

classification system without conducting a comprehensive evaluation of the entire ad valorem tax system.

#### **24. Revenue from Remote Sellers**

Existing Alabama law provides for the distribution of the revenue from a national sales tax on remote sellers, should such tax be enacted by the U.S. Congress. ACCA strongly opposes the amendment of the existing law that results in counties receiving less than 25 percent of the proceeds of such a national tax.

#### **25. Redemption of Property**

ACCA supports legislation to correct any technical problems in the current law dealing with tax sales and redemption of real property and would support a cap on the percentage of interest paid at the time of redemption, provided such legislation clearly provides that any monies paid at the tax sale in excess of taxes due shall be county revenue and any interest earned on monies paid into escrow from the tax sale shall be paid into the county general fund at the end of each fiscal year in which the property is not redeemed.

#### **26. Supernumeraries**

The Association opposes any legislation to increase compensation paid to supernumeraries unless such increase is approved by the county commission.

#### **27. Ad Valorem Tax Levies**

The authority to levy ad valorem taxes should remain with county and municipal governing bodies. Therefore, ACCA opposes any legislation that would authorize school boards or other governmental bodies to levy ad valorem taxes, and encourages the legislature to refrain from enacting any new laws reducing ad valorem tax revenues.

#### **28. Ad Valorem Tax Increases**

ACCA supports legislation to allow for an increase in local ad valorem taxes provided such legislation authorizes increases for county general purposes as well as education.

#### **29. Tax Court**

The Association opposes legislation creating a tax court in Alabama unless such court is prohibited from considering questions directly related to county governments that self-administer the collection of local taxes.

#### **30. Supermajority for Tax Increases**

ACCA opposes any legislation that would require that the passage of any new taxes, or increase in taxes, be effective only in the

event that it passes the legislature by more than a simple majority or would place other restrictions on the passage of such legislation.

### **31. Homestead Exemptions**

Alabama law currently provides certain homestead exemptions on ad valorem taxes due on real property. ACCA opposes any changes in these exemptions that would increase the amount of the exemption or provide different or additional exemptions based upon age, disability, or other factors.

### **32. Construction Property**

Currently, real property under construction as residential homes for sale is taxed for ad valorem purposes at 20 percent of the assessed value. This property is considered "business inventory" and is taxed at the business, rather than residential, rate. The Association opposes any legislation that would allow such property under construction to qualify for a lower assessment, such as the residential property assessment rate of 10 percent of the assessed value, unless the legislation limits the change to only those construction sites in platted subdivisions and requires the builder to forego "current use" classification on the remaining adjacent property.

### **33. Earmarking by Local Delegation**

ACCA opposes general or local legislation that authorizes the local legislative delegation to direct the expenditure of public funds through the wishes of individual or groups of legislators.

### **34. Sales Tax Holiday**

The Association opposes any legislation adding to the list of items exempted from sales tax during the current "sales tax holiday" weekend, and further opposes any additional sales tax holidays. In the alternative, the Association takes the position that any legislation providing for the expansion of the sales tax holiday, or for any new such holidays, should include language providing that the new provisions will not apply in any county unless approved by resolution of the county commission.

### **35. Business Licenses**

The Association opposes any legislation granting any type of exemption from the payment of state and county business licenses to any business or entity or group of businesses or entities.

### **36. Lodgings Tax**

The Association opposes any legislation that would alter or eliminate any existing county lodgings tax levies or any legislation that

would prohibit counties from levying new or additional lodgings taxes. However, ACCA is willing to work with the tourism industry on legislation providing for a portion of any new lodgings tax levies to be earmarked for tourism.

### **37. Salary Supplements**

The Association opposes any general or local law mandating the county to provide a local salary supplement to any state official or state employee whose salary is paid by the State of Alabama.

### **38. Lodging Tax on Clubs and Lodges**

The Association believes that state and local lodgings taxes levied in a particular jurisdiction should apply to persons renting or leasing accommodations at hunting and other recreational lodges or facilities within that jurisdiction.

## **JUSTICE & PUBLIC SAFETY**

### **1. Jail Standards**

ACCA opposes legislation to impose jail standards where there is not ample revenue supplied for funding of the standards or where counties do not have input into the establishment of the standards.

### **2. Alabama Criminal Justice Information System**

ACCA opposes legislation that would require county commissions and their agencies to pay any additional fees for access to the Alabama Criminal Justice Information System unless the legislation provides for specific limits on the charges to be levied, requires that all entities, both state and local, be treated in the same manner in determining the costs charged, provides equal credit to each entity for the information it provides to the ACJIS, and provides for the charges to be levied prospectively only.

### **3. Minimum Training for Reserve Law Enforcement Officers**

ACCA opposes any effort by the Alabama Peace Officers Standards and Training Commission that would reduce the number of hours of training available for reserve law enforcement officers or any change in law enforcement training curriculum that would prevent a reserve officer from being eligible to be granted arrest powers in the State of Alabama. ACCA also opposes any change in the law enforcement training format that would render it impractical for reserve officers to complete such training.

### **4. Juvenile Detention Standards**

The Association opposes the adoption of standards by the Administrative Office of Courts or any other state agency that would result in county governments being required to construct new or renovated existing juvenile detention facilities.

### **5. Truth-in-Sentencing**

Alabama's correctional system is in desperate need of reform. The aging prison population, the thousands of inmates sentenced under Alabama's habitual offender statute, and the growing number of drug offenders in the detention facilities are just some of the reasons for the overcrowding situation impacting all 67 county jails. ACCA supports efforts to ensure that violent inmates serve all or most of their sentences. However, such legislation should not be enacted without accompanying reform in the incarceration practices for non-violent offenders. For without such reform for non-violent offenders, Alabama's correctional system will only move closer to a disaster.

### **6. Crime Legislation**

The Association opposes the enactment of new crime legislation that would increase the number of inmates being housed in county jails or that would lengthen the time inmates are housed in county jails unless the legislature also provides adequately for the cost of housing such inmates.

### **7. Funding for Incarceration of State Prisoners**

ACCA urges the Alabama Legislature to give priority to the financial crisis facing the Alabama Department of Corrections and Alabama's county governments that house state prison inmates on the local level.

### **8. Law Officers Occupational Disease**

The Association opposes legislation that would automatically grant occupational disease payments to deputies without requiring that the deputy provide evidence that the disease was contracted while on the job.

### **9. Law Enforcement Aid**

Law enforcement personnel encounter many challenges and often it is necessary for counties to seek aid from other law enforcement agencies. ACCA believes such aid should only be sought after careful consideration with specific evaluation of liability issues. ACCA strongly opposes legislation that would authorize the providing of such assistance without the approval of the county governing body.

## **10. Compensation of Sheriffs' Reserve Deputies**

Reserve deputies perform an important service for Alabama's citizens. Such persons are not, however, a substitute for certified law enforcement officers. ACCA opposes any legislation that would allow for the compensation of reserve deputies, or that would otherwise allow for reserve deputies to be placed in a position of being considered regular law enforcement officers.

## **11. Hazardous Duty Retirement Credit**

The Alabama Legislature has established special retirement credits for certain law enforcement officers that results in sheriffs' deputies and others becoming eligible for full retirement after 20 (rather than 25) years of service. During debate on the legislation establishing this provision, ACCA expressed concern that other related officials might seek this special retirement benefit. The current law regarding law enforcement officers is carefully crafted to reduce the provision's financial impact on county government.

The Association strongly opposes the inclusion of other employees in this special retirement program unless such employees are required to possess educational or training credentials that justify such retirement benefits and unless the full cost of the additional retirement benefits will be paid by the employees.

## **12. Administration of 911 Programs**

The Association supports the administration of 911 programs through the leadership of local boards appointed by the governing body establishing the program. The Association strongly opposes efforts to transfer the administration of the local 911 programs to the Alabama Emergency Management Agency or any other statewide coordinating agency.

## **13. Medicaid for Inmates**

Currently, federal Medicaid regulations prohibit reimbursement for Medicaid-eligible inmates while incarcerated in a correctional facility such as the county jail or state prison. The Association strongly encourages the U.S. Congress to repeal the requirement that persons detained in state or county correctional facilities forfeit their Medicaid benefits immediately upon arrest.

## **14. Emergency Planning and Community Right-to-Know**

The Association supports efforts to strengthen the local Emergency Response Commissions and better equip those groups

to respond to and plan for emergency situations.

## **15. 911 Long-Range Study Commission**

The Alabama Emergency Communication District Long-Range Study Commission will make its report to the Alabama Legislature in February 2008. ACCA supports a comprehensive evaluation of the activities, revenue sources and expenditures of local 911 programs if it is accompanied by a similar review of the activities of the telecommunication and wireless companies that collect and remit service fees. The Association strongly opposes any legislation that would hinder the ability of local 911 programs to provide this essential service in a timely and cost-effective manner.

## **16. Revision of the Juvenile Code**

The Administrative Office of Courts and other interest groups have proposed legislation to substantially rewrite the current law related to juveniles, with the goal to more adequately address the needs of the child and in many instances, limit or eliminate the time the juvenile spends in a detention or correctional facility. The Association supports any changes in the law that would better address the problems of juvenile crime and deter delinquent activity, but strongly opposes any effort to shift any financial or programmatic responsibility to counties. Additionally, while the Association supports and encourages county participation in community-based juvenile detention alternative programs, it opposes any effort to mandate that counties initiate, finance, or operate such programs.

## **17. Juvenile Detention Issues**

The cost to counties for juvenile detention continues to rise at unacceptable levels, due in part to the Department of Youth Services' failure to take juveniles into its custody in a timely manner as required by law, and also in part to holding juveniles in detention facilities pending court hearings. ACCA urges the court system and all state agencies involved in the juvenile court process to address these issues through the development of additional programs that will allow for the placement of juveniles in appropriate programs on a timely basis and for the use of alternative detention or sentencing programs that will decrease the number of juveniles held in facilities both prior to and following adjudication.

## **18. Video Court Proceedings**

The Administrative Office of Courts is developing pilot projects to provide for certain court appearances to be held through video conferencing. This would, in many cases,

eliminate the need for deputies transporting juveniles or adult inmates in county jails to and from the detention or correctional facility to court appearances. This process would significantly reduce the costs of transporting juveniles and adult inmates, and would help to address safety concerns related to transporting dangerous inmates to and from court. The Association supports the efforts of the Administrative Office of Courts in developing and implementing this program and pledges to assist as necessary and appropriate, provided that the state is responsible for all costs associated with the development and implementation of this program.

## **19. Law Enforcement Internal Investigations**

ACCA takes the position that it is important for the sheriff to carefully supervise his or her office to be sure that law enforcement in the county is adequately and lawfully provided, and encourages all sheriffs to adopt and enforce effective procedures to ensure same. However, the Association will oppose any legislation mandating the sheriff to develop specific personnel procedures or requiring that he or she conduct internal investigations of his or her office and personnel.

## **20. Juvenile Transportation Costs**

The Association supports any legislative or administrative efforts to provide adequate state funding to the Administrative Office of Courts to reimburse counties for their costs in transporting juveniles who are held in detention or to provide for such transportation.

## **21. Payment for Inmate Labor**

The Department of Corrections has recently implemented procedures requiring state and local governmental entities to pay the Department a daily fee for the use of state inmates in government buildings and programs. The Association strongly opposes any requirement to pay for the use of state inmate labor by county government. Such charges may lead to fewer counties utilizing inmate labor, which will serve to harm inmate morale, reduce possible employment opportunities following release, and further shift the costs of housing and caring for state inmates to the county commission.

## **22. Reimbursement for State Inmate Medical Expenses**

State law requires that the Department of Corrections be financially responsible for the medical expenses incurred by the county on behalf of a state inmate housed in the county jail. Reimbursement of these expenses has been historically slow and overly

burdensome. ACCA urges the Department of Corrections to develop procedures to expedite the reimbursement to counties of these expenses, and to ensure that all counties are advised in writing of the procedures to use for expedited reimbursement.

### **23. Qualifications for Sheriff**

The Association does not oppose legislation establishing qualifications to run for or serve in the office of sheriff, provided the requirements do not arbitrarily prohibit persons from eligibility. ACCA believes that any legislation addressing qualifications to run for the office of sheriff should also include a requirement that the person elected to the office participate in a post-election training program similar to that required of county commissioners.

### **24. Dangerous Dogs**

The Association supports efforts to address concerns related to dangerous dogs running at large. However, the Association opposes legislation making it more difficult to bring individual action against the owners of dangerous dogs for dangerous behavior or mandating that counties assume responsibility for the regulation and enforcement of laws related to housing and care of such animals. Additionally, any legislation addressing the problem of dangerous dogs should require the owners of such dogs to assume all financial responsibility for the dog and/or any injuries or violations of the law caused by the actions of the owners and/or the dog.

### **25. Due Process Protection**

The Alabama Ethics Commission is charged with enforcing Alabama's Ethics Law and with making value judgments regarding the behavior of public officials and employees. It is important that all public officials and employees be afforded access to and granted the ability to present information at any meetings at which the Commission will render decisions on the behavior of the official or employee.

## **PUBLIC WORKS & RURAL TRANSPORTATION**

### **1. Highway, Road and Bridge Funding**

ACCA supports an increase in taxes or fees for the funding of any new or existing highway, road or bridge program if a reasonable portion of the proceeds are distributed to county governing bodies to be used for county road and bridge purposes.

### **2. Federal Tax on Gasoline**

The proceeds of any new federal tax on

gasoline should be distributed to state and local governments according to existing state formulas for distribution of gasoline tax proceeds.

### **3. Alabama Highway Commission**

The Association opposes legislation to establish a commission to administer the Alabama Department of Transportation.

### **4. Levelized Fuel Taxes**

The Association opposes legislation that would levelize statewide and local motor fuel taxation rates throughout the state. The Association also opposes any effort to restrict the counties' authority to impose local fuel taxes.

### **5. Statewide Taxes on Vehicle Tags**

The Association supports legislation to increase the cost of vehicle tags with the additional revenue going to county governments.

### **6. Use of Highway User Fees and Taxes**

The Association is of the opinion that the Alabama Legislature currently appropriates more of the proceeds from highway user fees and taxes to the Alabama Department of Revenue than is currently being expended by the Department to collect such fees and taxes and to administer state law related thereto. ACCA takes the position that such practice is a violation of Amendment 93 to the Alabama Constitution and therefore should be stopped. During the budgeting process, the portion of the proceeds necessary to collect the fees and taxes and to administer the state laws relating thereto should be accurately reflected by the Department of Revenue, and the Legislature should appropriate to the Department of Revenue only that amount that accurately reflects those administrative costs.

### **7. Enforcement of User Fees and Tax Laws**

The Association supports the position that the Alabama Department of Revenue should increase its efforts to enforce all user fee and tax statutes of Alabama, including highway user fees and taxes, as well as sales and other taxes. ACCA is of the opinion that millions of dollars from such fees and taxes are not being collected because of inadequate enforcement. ACCA calls on the Department to hire additional auditors and other enforcement officers sufficient to ensure that all taxes are paid and collected according to law.

### **8. Funding for Rural Access Program**

The Association encourages the Departments of Revenue and Transportation to employ sufficient personnel and implement necessary procedures to enforce the provisions of Act 95-410 relating to motor fuels sold and/or transported in Alabama.

### **9. Overweight Vehicles on County Roads**

Alabama's more than 36,000 miles of paved county roads, more than 22,000 miles of unpaved county roads and more than 8,800 county bridges were not constructed to withstand traffic from vehicles carrying excessive weight. The damage resulting from overweight vehicles harms the economic well-being of Alabama, inconveniences motorists and other travelers, and endangers the lives of thousands of people each year. Therefore, the Association encourages industry representatives and organizations to promote the hauling of products at no more than legal limits on Alabama's county roads and bridges. And further, ACCA encourages the Alabama Legislature to enact laws that will ensure the preservation of the investment Alabama's taxpayers have made in the construction and maintenance of county roads and bridges. The Association also strongly opposes any legislation that would make it more difficult to enforce weight limits on county roads and bridges or that would grant further exemptions to local and state weight limits.

### **10. Funding for County Projects**

ACCA believes additional revenue should be allocated to county road and bridge projects. Therefore, the Association calls on the Alabama Department of Transportation to share any increases in federal funds with county governments on a proportional basis. Additionally, ACCA supports the amendment of Alabama's existing diesel fuel tax statutes to provide that county governments receive a portion of the revenue generated by this tax.

### **11. Diversion of Highway Funds**

ACCA strongly opposes legislation that would divert to non-highway purposes the proceeds from any existing or new tax or fee traditionally earmarked as highway user fees.

### **12. Speed Limits on County Roads**

The Association strongly supports the current law regarding speed limits on unposted county paved and unpaved roads. It is important that Alabama's motorists recognize the need to exercise caution on Alabama's rural roads, which were designed for lower speeds and smaller traffic volume. For that reason, ACCA strongly opposes

amendments to the current law regarding the speed limit on unposted county roads.

### **13. Municipal Water Lines**

ACCA opposes legislation that would require counties to contact municipal governments prior to the conducting of road maintenance or construction activities on roads under or near which municipal water lines may be buried. Such municipalities should contact the county governing body before the burying of water lines and should abide by county standards for such activities.

### **14. Utility Location**

Current Alabama law requires those who are conducting earth-moving activities to call the centralized notification system before beginning such activity. This procedure is designed to protect the public from interruption of utility service and to avoid accidents. The law provides an exemption from the notification requirements for routine maintenance performed on the public right-of-way by county and state government. ACCA strongly opposes any efforts to amend Alabama law to require the county commissions to notify the centralized statewide system prior to conducting routine maintenance activities on county right-of-ways.

### **15. Aviation Fuel Tax**

The Association supports additional state revenue for General Aviation Airports in order to match federal grants available for such airports.

### **16. Construction Zone Liability**

ACCA supports legislation to provide private road contractors liability protection from civil suits resulting from accidents that occur in construction zones if the contractor was operating within the terms of the contract.

However, such legislation must also apply to construction projects conducted by county governing bodies.

### **17. Building Codes and Permits**

Due in part to the devastating hurricane seasons in recent years, several groups are working to establish and enforce a statewide building code for new residential and commercial construction. ACCA has and will continue to participate in discussions on this issue, and will support a statewide building code, provided that counties retain the ability to enforce those codes on the local level and that any such legislation does not include an unfunded mandate on county governments. It is also imperative that any legislation include language to ensure that the establishment and enforcement of building codes will not give rise to lawsuits against counties regarding the quality of construction conducted by private contractors.

### **18. Expenditure of Federal Safety Funds**

The existing federal highway funding legislation provides funding for safety measures to reduce traffic deaths. During 2005, some 32 percent of the traffic deaths occurred on county roads. ACCA urges the Alabama Department of Transportation to distribute the federal safety program funds in proportion to the incident of traffic fatalities on Alabama's road system.

### **19. Municipal Planning Commissions**

Both the county commissions and municipalities are authorized to regulate the development of subdivisions in the areas within the municipality's planning jurisdiction. Such dual authority often results in consumers being subjected to the construction of subdivisions that are poorly

inspected and reviewed by local officials. Further, because municipalities are not required to accept or maintain roads or other structures outside their limits, the exercise of such power outside their territorial jurisdiction is not consistent with good public policy. Therefore, municipalities should not be allowed to exercise the regulation of subdivisions outside their corporate limits unless the county commission agrees for such regulation to occur.

### **20. Federal Hurricane and Coastal Protection Funds**

ACCA does not oppose legislation creating a trust fund or otherwise providing for the revenues Alabama will receive from the Gulf of Mexico Energy Security Act of 2006 for hurricane and coastal protection purposes, provided that any such legislation include language providing that, in the event the federal law expands the purposes for which the monies can be utilized by each recipient state, 10 percent of the interest from the trust fund shall be paid into the county capital improvement trust fund.

### **21. Toll Roads and Bridges**

The Association opposes the sale or lease of any existing roads or bridges to investors or other entities that would operate the roads or bridges based upon a toll system without a comprehensive study to demonstrate that there will be no negative long- or short-range impact on Alabama's taxpayers and the state's economic and social growth. Further, the Association believes that any additional toll bridge or road structures constructed in Alabama should be regulated by the authorizing toll authority to ensure equitable and fair charges to Alabama's motorists.

# Priority Legislation for 2008

*Editor's note: The bills outlined below represent the Association priority legislation for the 2008 legislative session. The Association will focus its time and energy on the passage of the following legislation...*

## COUNTY ADMINISTRATION

### County Modernization – Part II

Continuing with the Association's long-range plans to "modernize" Alabama's general law relating to county government, this legislation would repeal several obsolete provisions of the Code, rewrite the law regarding official bonds for county officials and employees, and revise current law related to issues such as investigation and payment of claims and the acquisition of property.

Sections to be repealed would include, provisions requiring special elections for moving the county seat, authorizing county appropriations for "dipping cattle," specific authority for appointing county surveyors for three year terms, and procedures for codifying or publishing local laws.

Probably the most important element of this proposed legislation are provisions rewriting the law regarding official bonds for county officials and employees to, among other things, provide for the county commission to set the bond based upon the budget of the functions of the official or employee, provide that proceeds from a bond forfeiture be paid to the county fund affected by the action or inaction of the official and employee, and establish specific times for the payment and filing of such bonds.

### Bid Law Amendments

Part of the Association's 2007 package of bills was legislation to make three minor

changes to Alabama's bid law. The bill passed in the legislature, but it was vetoed by the Governor on the last night of the regular session. Therefore, the Association proposes to include this bill in its package for the upcoming session.

The bill makes three simple changes in the portion of Alabama's bid law that applies to local governments: (1) increase the local preference from 3 to 5 percent; (2) eliminate the requirement of a bid bond on bids exceeding \$10,000; and (3) allow counties to move to the second-lowest bidder meeting provisions of the bid when the original

successful bidder refuses to comply with the requirements of the bid award.

### Employee Benefits Trust Fund

This legislation would authorize county commissions to establish trust funds to finance the cost of providing post-employment benefits, such as health care and other insurance. This permissive authority would allow counties an alternative method to comply with the Governmental Accounting and Standards Board's requirement that such expenditures be included on all financial statements. By setting revenue aside to finance the benefits, counties will not be required to carry the costs on their financial records as an unfunded liability.

## ENVIRONMENT & LAND USE

### Litter Enforcement Study Commission

The Association has for several years considered ways to improve the enforcement of Alabama's litter laws. In an effort to emphasize this important issue and generate interest from other state and local groups to make litter enforcement a priority, the Association proposes the creation of a litter enforcement study commission created by resolution of the Alabama Legislature. This broad-based commission would include state and local agencies and community leaders to offer suggested legislative or administrative changes and/or community-based programs to strengthen Alabama's litter laws and enforcement efforts.

## FINANCE & TAXATION

### Business License Reform

This legislation proposes to make changes in Alabama's business licensing laws aimed at simplifying and standardizing the process for purchasing and renewing certain business licenses to reduce the administrative burden on both county officials and taxpayers and to improve compliance and enforcement. While not a comprehensive revision of Alabama's business license laws, this bill would repeal a number of obsolete licenses and provide for the purchase of a store license for all retail businesses. Additionally, the bill would set a minimum fee for all business licenses issued in the state, provide for electronic renewal of licenses, and increase the issuance and citation fees assessed as part of the licensing and enforcement process.

### 10-Mil School Tax Amendment

The amendment ratified in 2006 to require all school districts to have a minimum of 10-mils in ad valorem tax for public education provides that the county will not retain any administrative costs related to the levy and collection of any millage levied in order to comply with this amendment. However, as written, the amendment also inadvertently eliminates the county's ability to retain administrative costs for the levy and collection of existing taxes upon renewal. The Association proposes legislation to correct this problem through a new constitutional amendment clarifying that the language prohibiting counties from retaining administrative costs only applies to levies set to obtain the 10-mils required under the original amendment.

## JUSTICE & PUBLIC SAFETY

### Sex Offender Notification Statute

Alabama's sex offender notification statute currently requires an adult criminal sex offender to provide an address where he or she intends to live upon release from prison, and if the address does not comply with the residential restrictions placed upon such offenders, is "re-arrested" by the sheriff upon release. The offender is then held in the county jail on the new charges. This legislation proposes changes to the current statute to provide adequate time, notice, and procedures allowing the offender to secure an appropriate residence following release from prison such that he or she can avoid "re-arrest" and placement in the county jail.

### ACJIS Network Sharing

This legislation proposes to amend Alabama's Criminal Justice Information System statute to allow that agency to share its bandwidths or communication tunnels with local 911 systems. This change would greatly improve the ability of local 911 systems to interact with one another in ways that would better provide for the programs to assist each other in ways such as allowing one system to back up another system during a disaster or other emergency limiting the local system's capabilities.

## **PUBLIC WORKS & RURAL TRANSPORTATION**

### **Road and Bridge Funding Package**

The Association is proposing the following package of bills aimed at providing additional funding for county road and bridge projects. This package includes bills providing for new gas tax revenues and improving collection efforts on taxes currently levied.

- **Local Option Gasoline and Motor Fuel Fees.** This bill would authorize counties to levy a local gasoline and/or motor fuel tax in an amount not to exceed 5¢ per gallon, with the proceeds from the tax earmarked for road and bridge construction contracts.
- **Indexing of Statewide Gasoline and Motor Fuel Fees.** This legislation links the rate of gasoline and motor fuel fees to a ratio between the amount of gasoline sold in Alabama and the cost of road construction. Using 1993 as the base year, the rate of the statewide fees would be adjusted over a five-year period in order to reach the present-day levels.

- **Collection Point of Gasoline and Motor Fuel Fees.** This bill would shift the collection of statewide motor fuel taxes from the wholesale point to the refinery. This proposal, which is in line with how most states now collect the tax, will improve collection efforts because there will be fewer businesses from which to collect the tax and the opportunity for tax evasion will be significantly reduced.
- **County Bridge Bond Issue.** This bill authorizes a second county bridge bond issue continuing the project successfully implemented in 2000. Under this proposal, the revenue from the bond issue would be distributed in the same manner as in 2000, including the same guidelines and time restrictions for the utilization of the funds. Although a specific source of funding has not been identified, it is contemplated that some of the additional revenue produced by the other funding measures would be used to repay the bonds.

### **Rental and Repair of Heavy Equipment**

Current law includes an exemption from the bid law for the rental and repair of heavy equipment. The exemption for rentals is limited to \$5,000 per item with a total of \$15,000 per month. Equipment repairs of up to \$15,000 per incident of repair are also exempt. This legislation proposes to increase the current exemption amounts to allow for the rental of equipment up to \$10,000 per item with a \$30,000 monthly limit. Additionally, this bill would increase the exemption amount for repairs to \$30,000 per repair.

# ACCA's Membership Steers Legislative Program

Each year, many of ACCA's dedicated members take the legislative program under their wings and spend hours drafting the Association's initiatives for the upcoming legislative session. The 2008 legislative package, which begins on page 8, is the culmination of the hours of hard work from these members, and the Association offers these members many thanks for their hard work.

## 2007-08 ACCA Legislative Committee

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District 3.....Hon. Glenda Hodges, Jackson County

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District 5.....Hon. Shelia Smoot, Jefferson County

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District 7.....Hon. Jon Parker, Shelby County

District 8.....Hon. Cattie Epps, Russell County

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Kevin Caputo, Sales Tax Division, Madison County  
Hon. Carl Wyatt, Commissioner, Chilton County  
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## Justice and Public Safety Steering Committee

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Hon. Wiley Tait, Commissioner, Escambia County  
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Hon. John Glasscock, Chairman, Morgan County  
Chuck Murph, EMA Director, Monroe County  
Donnie Smith, 911 Director, Chambers County  
Hon. Bernest Brooks, Commissioner, Coffee County  
Dennis McCall, Engineer, Butler County  
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Hon. Earl Cunningham, Commissioner, Shelby County  
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Hon. Ronnie Blackmon, Commissioner, Crenshaw County  
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Hon. Albert Daniels, Commissioner, Macon County  
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Jeanette Medders, CCA, Administrator, Elmore County  
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Sherrie Kelley, CCA, Administrator, Coosa County  
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Hon. Charlie Sankey, Commissioner, Crenshaw County  
Bill Cook, Environmental Enforcement Officer, Macon County  
Shannon Robbins, CEA, Engineer, Cleburne County  
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Hon. Buddy Allen, Commissioner, Marshall County  
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Benjie Sanders, CEA, Engineer, Crenshaw County  
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Minority Representative, ACCA Board of Directors  
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District 4.....Hon. Mose Jones, Lawrence County  
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