

# COUNTY COMMISSION

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**What's Inside...**  
Making law  
enforcement safer

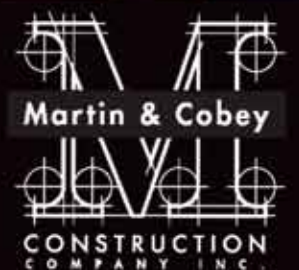


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*Special thanks to Autauga County Sheriff Herbie Johnson and Jail Administrator Larry Nixon for allowing County Commission Magazine inside Autauga Metro Jail to take photos for this issue.*



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*Hon. Tim Choate  
President*

A handwritten signature in dark ink, appearing to read "Tim Choate".

## Focusing on being the one voice for county government in Alabama

Reflections on a year in office

**H**ave we been part of starting something significant that will continue for years to come; or are we nearing the close of a project that will quickly be forgotten after Tim Choate steps aside as ACCA president?

Did we commit ourselves to raising public awareness of our collective efforts on behalf of counties; or did we simply improve our web site, put on a new shirt with the Association's new logo and say a bunch of shallow words about speaking with one voice for counties?

In short, were we just killing time or have we made a significant change that will benefit counties for years?

As my year as president nears its conclusion, that's the question that rings in my ears. I hope it is a question you will ponder as you think about your role in this outstanding organization.

I am convinced that together we've produced something that has forever changed this Association. We've raised our own awareness of the Association's significant role in improving the lives of people back home. And, in the process, we've enhanced our ability to make more changes in the future.

That's what this effort has been about for me. Securing high ground from which this Association can speak with an even stronger – and more unified – voice for the best interests of counties.

The new web site presents a new visual image of the Association that more effectively links our activities with the important issues in our state. It is much easier to use. It provides direct access to more useful information. And it

provides us a new platform to advance the successes of counties.

The new logo for the Association wasn't designed to simply "start over" with our image. It represents who we are and what we do. It speaks to our focus together and it tells what we are to be about – and that's speaking with one strong, unified and clear voice about the best interests of county government.

There is no one else to speak with that voice. And if we don't speak for counties, the citizens back home will be the real losers. As our state faces more challenges, county government will become the focus of even more attacks on our ability to provide those services that are essential to economic development and growth, health, quality of life, transportation, safety, law enforcement and educational advancement.

In the last decade or so it has become more "in vogue" to criticize government as wasteful and unnecessary. There are many voices that will cry out charges of waste, self-interest and government's unquenchable thirst for revenue. But there is – and, perhaps, always will be – only one group to speak for county government in our state.

When you become president of the Association you see – and become part of – things that you did not know existed. You are exposed to this Association's role in decision-making in our state and the ability we have to shape public policy in the legislature, with our direct connection

**As our state faces more challenges, county government will become the focus of even more attacks on our ability to provide those services that are essential to economic development and growth, health, quality of life, transportation, safety, law enforcement and educational advancement.**

to state agencies and our important role with the National Association of Counties and with the members of our Congressional delegation.

Those groups have always recognized this Association as the “voice” of counties and this year we have only enhanced the position by focusing on making the voice one that speaks with more influence, clarity and productivity than any of our single voices can accomplish alone.

Much has been accomplished this year – our legislative session was again

outstanding, we’re going to have a statewide set of contracts for debris removal and monitoring for use after disasters, we’ve responded to the challenge of Gov. Robert Bentley’s ATRIP road and bridge program, we helped protect funding for rural bridges as Congress passed the new highway funding legislation, and, yes, we’ve implemented a new, focused effort to raise public awareness of ACCA.

Continuing this momentum does not rest with our next president, Ricky Harcrow, any more than the accomplishments of this year result

from anything Tim Choate did on his own. If this effort to unify one voice for counties is to be a sea change in Alabama – a change that positively impacts the lives of our citizens back home – then the new challenge rests with every member of this organization.

I am not leaving; I am just stepping aside to become a past president. I will continue my efforts to ensure we provide one strong, unified and effective voice for county government in Alabama. Will you join me?



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*Sonny Brasfield*  
*Executive Director*

*Sonny Brasfield*

## Local decision-making on local funding for local transportation projects

Votes in Mobile and Georgia show the future for road and bridge work

As every county in Alabama works at a hectic pace to ready applications for the ambitious \$1 billion road and bridge program initiated by Gov. Robert Bentley, some news from just off our east border has put things back into perspective.

In late July voters in Georgia went to the polls to consider a statewide tax increase to fund transportation-related expenses. The vote was conducted in 12 regions, with only three of those regions approving the vote. In most areas – especially those where the resulting tax proceeds were diced up on non-road projects – the negative voters smothered those who favored the projects.

The only three districts that supported the vote were those in which the money was almost exclusively proposed for road and bridge projects. There is, I believe, a clear message in those results: the voters will consider paying additional taxes to support highway construction, if they get the chance.

We've always believed that to be the case.

There is evidence in Mobile County, where voters consistently renew an ad valorem tax levy that is locked down for expenditure only on road and bridge construction. In fact, the Mobile model includes the identification of the specific projects BEFORE the vote. The taxpayers then know exactly what they are "buying" when they decide to pay some additional taxes for a specific time.

The projections from experts around the country are that federal funding for road and bridge projects will continue

to dwindle, perhaps by as much as 20 percent over the next few years. The new highway law enacted by Congress just a couple of months ago reduced by about \$50 million per year the net revenue available to the Alabama Department of Transportation. More cuts are, almost certainly, around the corner. And, all the while, the costs of construction climb at an alarming pace.

The proceeds from the state-levied highway tax are stagnant – and have been for more than a decade. Collected on the number of gallons of gasoline and diesel fuel sold, the prospects for growth in this tax are gloomy, at best.

Projects like the current one initiated by Gov. Bentley earlier this year serve as a defibrillator for a road and bridge system teetering on the brink of expiration. This particular program, which is the largest in the state's history by at least 200 percent, has come at a time when counties had already been forced to begin plowing up the decaying asphalt in order to return roads to an easier-to-maintain dirt status. Without this program, counties would be facing disastrous decisions in the next couple of years.

If there is no permanent relief in sight from federal revenue and little-to-no reason to believe that state gasoline tax proceeds will grow in our lifetimes, then how can the future of county transportation be anything but disastrous? The easy answer to the question, of course, is that there is no hope of any good news.

But, for those willing to look closely, there is a glimmer of hope from the

**Clearly, voters are willing to consider supporting an increase in revenue if they know exactly where the money is going. Voters understand the value of a solid transportation system; they understand the link between transportation and economic growth and a better quality of life.**

Georgia vote and the experience in Mobile. Clearly, voters are willing to consider supporting an increase in revenue if they know exactly where the money is going. Voters understand the value of a solid transportation system; they understand the link between transportation and economic growth and a better quality of life.

For the last three years the Association has supported legislation that would allow for county referendums on time-limited increases in gasoline and diesel fuel taxes in Alabama. Prior to the vote, the county would be required to establish a list of the exact projects

that would be funded. The resulting revenue could be spent ONLY on those projects. And, at the end of five years, the tax would be repealed unless a new set of projects were approved by voter referendum.

In three sessions, we've been unable to get even a committee hearing on the legislation.

Groups that carry a great deal of influence in Montgomery today cry out for "transparency" in government. They seek a stronger "voice" for the people at the Capital and at the ballot box. But, yet, there seems to be little appetite for allowing the voters to decide if they will

support more revenue for road projects in their back yards.

As we look toward the 2013 regular session, I trust the ACCA membership will vote to make this legislative initiative a priority once again. Those taxpayers who live and drive and depend on the transportation system maintained by county government deserve the opportunity to decide whether they will invest in that system.

Clearly, there is no other way to get money to improve our transportation system. In Georgia, at least, the voters were given the chance to decide the fate of their own communities.

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Mary E. Pons  
Association Counsel

A handwritten signature in black ink, appearing to read "Mary E. Pons".

## Counties need expert help to navigate laws regarding personnel

Steps can be taken to reduce likelihood of costly lawsuits

If you have called me for help with a personnel issue you know my response begins with, “I am not an expert on this topic.” I wish I was. Personnel matters are extremely important, time-consuming and problematic. Unfortunately, I suspect that many charged with handling county personnel matters approach these issues with that same uncomfortable sense that “I am not an expert on this topic.”

We all need to work harder to learn more about personnel issues and ensure that every county has proper policy and procedures to avoid problems that lead to controversy and lawsuits. Also, we all need to work harder to make sure that all county officials, department heads, and supervisors understand enough to know when they need to find an expert and they will then rely on that expert’s advice.

Personnel cases are a significant number of the claims filed against counties. These cases are difficult and expensive to defend and can result in high judgments. This should be a concern in all counties – and should lead to proactive measures to reduce these numbers. This can be done with a few steps: develop a better understanding of the personnel laws applicable to the county, review personnel policies and procedures to ensure the county is in compliance with these laws, properly train county officials and key staff to ensure they understand applicable laws and procedures and require strict adherence to these laws and procedures.

This is easier said than done, but it is so important that every county should

figure out how to do it. Not only will this protect the county from protracted and expensive litigation, it will help ensure that county employees are provided all rights and protections set out in state and federal law.

The area of “personnel” is quite broad so there is much to consider in developing comprehensive policy and procedures and then properly training necessary officials and staff. First, there are a variety of federal laws counties must follow – each one complex and requiring specific action to ensure the employee is aware of the rights and benefits and knows how to apply for them.

For example, the Fair Labor Standards Act establishes minimum wages and, more importantly, sets rules for overtime or compensatory leave. The Family Medical Leave Act establishes procedures for employees to take extended leave because of a personal or family illness. The Uniform Services Employment and Reemployment Rights Act grants certain protections to employees away from work for extended periods of time due to their military service. The Consolidated Omnibus Budget Reconciliation Act (COBRA) authorizes employees to retain health insurance benefits for a time following their departure from employment provided they pay the premium. And the Americans with Disabilities Act requires the employer to make certain accommodations to employees with disabilities.

This is not an exhaustive list of applicable federal law, but it illustrates



## **Personnel cases represent a significant number of the claims filed against counties. These cases are difficult and expensive to defend and, at least in federal court, can result in high judgments.**

how many issues must be addressed in personnel policies to ensure these federal rights and benefits are available to each employee. It should also illustrate that someone in every county must have a good working knowledge of these laws and must oversee the process to ensure that all officials, department heads, and supervisors comply. This is a daunting task and cannot be accomplished without good policies in place, proper training and strong support from the county commission and the county's legal advisers.

And that is just federal law. While there are no specific state laws dealing with hiring, firing or discipline of employees, there may be local laws at play on these issues. And there are general law and constitutional provisions which apply to the county employer and/or employee. For example, state law authorizes county employees to participate in political activities on their own time but requires an employee to take leave to run for county office. There are restrictions on employer-paid health insurance premiums and a ban on retroactive raises or bonuses. Additionally, counties in the Retirement Systems of Alabama must follow state law and RSA rules and regulations regarding employer/employee contributions and eligibility. Again, this is not an exhaustive list of personnel issues affected by state law. And again, someone in the county must fully understand these and other applicable laws, must make sure these laws are adequately covered by county personnel

rules and procedures, and must make sure county officials, department heads, and supervisors understand the laws and act in compliance.

County personnel matters are further complicated by the fact that many employees work under other public officials – and some in the sheriff's office are not considered county employees. Even where the employee is not under the commission's direct supervision, the county is generally responsible for defending against claims filed by an employee, and the county's insurance frequently pays any judgments. This means the county commission must ensure that all

applicable policies and procedures are followed in these other offices and that all county officials coordinate with the county commission on personnel issues.

Clearly, this is a complex area of law. This barely scratches the surface of that complexity, but I hope it illustrates the importance of implementing good personnel policies and practices that comply with state, federal, and local law. Counties are strongly encouraged to review all policies and procedures for weaknesses and move carefully and thoughtfully to make necessary changes. And of course, to best accomplish these important measures, the county should find an expert to help.



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# Pair of county experts contributes to ATRIP

Some people refer to retirement as going “out to pasture,” but two long-time county engineers are back in the harness again to help with Gov. Robert Bentley’s ATRIP initiative.

ATRIP – which stands for Alabama Transportation and Rehabilitation Improvement Program – is a historic investment in Alabama’s local infrastructure that could total as much as \$800 million when complete. It has already awarded \$110 million to cities and counties around the state in its first phase.

Part of the process for a project to get funding is review by the ATRIP Advisory Committee. That’s where the two retired engineers come in.

Henry Hawkins is retired from Chambers County, and Herb Huner is retired from Pike County. Together, they represent county interests on the committee.

Hawkins makes the whole thing sound straightforward. “We simply meet with the director and discuss the problems we’re having getting these projects



*Retired county engineers Herb Huner, left, and Henry Hawkins, right, listen to discussion during a recent meeting of the ATRIP Advisory Committee. Photo: Jesse Miller, Alabama Department of Transportation*

approved and funded,” he said. The governor has the final decision on which projects are funded.

Hawkins has also traveled the state a bit, helping counties troubleshoot various issues with ATRIP projects, and Hawkins said he is concerned about counties being able to meet the match requirements. A 20 percent local match is required for the program.

Hawkins retired in February after 16 years as Chambers County’s engineer. After a short career in public television, his second career was as a land surveyor. After 12 years in that business, he went back to school to

be a county engineer. Altogether, he spent more than 25 years in county engineering, first as an assistant in Chambers County under Charles Markert, then as engineer in Henry County finally back to Chambers.

These days, Hawkins spends his free time in his half-acre garden or playing golf. His wife is retired too, and they have a menagerie of pets.

Though he planned to keep working some, Hawkins said he did not expect to be working on a project of this magnitude at this stage of his life.

“I don’t think a program like this will happen again in the near future,” he said. His advice to the current group of engineers is to maximize their match dollars. “I would get with my commissioners and my administrator to find as much match as possible, but I wouldn’t bond over 10 years I’d really rather stay within 5.”

Transportation Director John Cooper has said he is looking into possibilities to help counties come up with their matching funds, but he said state funds are limited too. Hawkins was cautious too, warning, “One thing I’ve learned about government is that there is no closet full of money. You can’t open a door and money fall out.”

Huner said the work of the advisory committee has been enjoyable.

“I think we’re doing some good things to help the counties and cities,” he said. “We try to look at the projects that

*continued on p. 12*



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By Jamie Sandford

Alabama Power Company



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room will feel like it's on 74 or 75.

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your power bill. In fact, each degree above that can decrease your power bill significantly. Wow. Now you know why I'm such a fan of the fan.

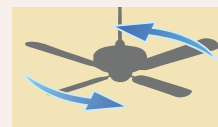


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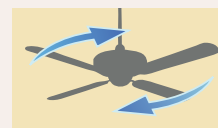
For more tips on ceiling fans, visit [AlabamaPower.com/tips](http://AlabamaPower.com/tips).

## In which direction should your fan blow?

If your fan has a reversible switch, make sure you've got it on the right setting. Now, there is a lot of debate about what the "right setting" is, but here is my take on things.



In the summer, your blades should be rotating counter-clockwise, so that you can feel cool air being pushed down on you.



In the winter, you want those blades rotating in a clockwise direction, which causes the hot air up near the ceiling to be redistributed to lower parts of the room.



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**ATRIP** *continued from p. 10*

## ATRIP Advisory Committee

John Cooper, Alabama Transportation Director –  
 Committee Chairman

Lieutenant Governor Kay Ivey

Representative Mac McCutcheon of Huntsville

Senator Paul Bussman of Cullman

Agriculture Commissioner John McMillan

Henry Hawkins – Retired county road engineer (Chambers County)

Herb Huner – Retired county road engineer (Pike County)

have been submitted, look at what projects are worthy and qualify.”

Huner has been retired for four years after 30 years as engineer in Pike County. His retirement has been filled with looking after a few cows and some timber, playing golf and softball as well as helping coach youth baseball. He and his wife have seven grandchildren, three of whom live in Troy. He also serves on as district supervisor for the Pike County Soil and Water Conservation District.

When he was contacted about serving on the committee, Huner said he hesitated at first. “But I thought it was worthwhile to the counties,” he said. “I have a strong feeling for the counties, having worked with them so long.”

His advice to current engineers echoed that given by Hawkins. “The most important thing is the 20 percent match, so I would urge all of them to make an effort to get that part of the money rounded up or available.” Huner said. “You don’t want to lose that kind of funding.”

Cooper, a former CEO with a background in accounting, has certainly made an impression on both engineers.

Hawkins said Cooper has a habit of staying out front ahead of issues. “He’s easy to get along with, I think a lot of him,” Hawkins said. “He’ll get the job done.”

Huner has also been impressed. “Some highway directors have not been as pro-county as Mr. Cooper seems to be,” he said.

Two additional rounds of ATRIP funding are planned. The deadline for Phase 2 applications is Oct. 5, and the deadline for Phase 3 applications is March 29, 2013.

## ACCA Partners get starring role at convention

### Association's corporate partners get special recognition in exhibit hall at annual convention

Be on the lookout for some special companies when you visit the exhibit hall during the Association of County Commissions of Alabama's 2012 Annual Convention.

Certain booths will have special red starburst signs indicating these exhibitors are ACCA Partners. But what does that mean?

"Being an ACCA Partner indicates that a company is invested in doing business with Alabama counties," said Sonny Brasfield, ACCA executive director. "It means that these companies – a total of 52 this year – have joined with the Association to help promote effective county government, and we are proud to have them as members."

In a nutshell, the Partners program is a membership program for companies that want to be part of ACCA.

The companies get a range of benefits, from advertising discounts to advance notice of ACCA events to ACCA publications.

Counties benefit too – they get a "go to" list of vendors that are definitely interested in working with them. And these vendors are likely to have relationships with other Alabama counties, making it easier to track down references.

The full list of 2012 Partners is also available online at <http://www.alabamacounties.org/about-acca/partners/>

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# Public service in Chairman McMillan's blood

You might be tempted to say politics is the McMillan family business, but longtime legislator Steve McMillan says the real family business is public service.

He and his identical twin John both hold public office now, with John McMillan serving as Alabama's commissioner of agriculture and industries. Back in 1980, it was John who was representing Baldwin County in the Alabama House of Representatives when Gov. Fob James appointed him commissioner of conservation and natural resources. That led to a special election where Steve won the seat, and more than 30 years later he's still driving to Montgomery to represent Baldwin County.



**Rep. McMillan**

Other brothers have served in the state Legislature, and some have them have served simultaneously. But Steve believes that the McMillan

twins are the only twins to both serve in Alabama's Legislature. And, there's another distinction for the record books – as far as he knows, Steve has held the same office longer than anyone else in the history of Baldwin County.

The family habit of service goes back generations. The twins' dad served 16 years on the Baldwin County school board, and their great grandfather was a delegate to the convention that wrote the state's 1901 constitution. They can

even trace their lineage to a governor; John Murphy, Alabama's fourth chief executive, is their great-great-grandfather.

In any case, Alabama counties are better off because of Steve McMillan's work. He is the current chairman of the House County and Municipal Government Committee, and his track record for passing ACCA bills goes back to 1984.

"Steve McMillan is one of the hardest working members of the Alabama Legislature, and I am grateful that local government is a priority for him,"

*continued on p. 17*

### **ACCA legislation passed by Rep. Steve McMillan**

#### **Act 2012-297**

Ensured that subdivision regulations are enforced where a city's planning jurisdiction stretches outside city limits, which means that subdivision roads will be built to proper standards

#### **Act 2000-108**

Omnibus Pay Act, which tied the salary of county elected officials to the employee salaries in that county.

#### **Act 1991-550**

Increased the mileage allowance county commissioners receive when they use their personal vehicles in the performance of their duties.

#### **Act 1990-558**

Authorized county commissions to appoint license inspectors.

#### **Act 1984-289**

Authorized counties to bind only one copy of newspapers in the courthouse.

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**HUGE 2-DAY CONTRACTORS EQUIPMENT & TRUCK AUCTION • PHILADELPHIA, MISSISSIPPI  
WEDNESDAY, MAY 30<sup>th</sup> & THURSDAY, MAY 31<sup>st</sup> • 2012**

**CONTRACTORS EQUIPMENT & TRUCK AUCTION • PHILADELPHIA, MISSISSIPPI  
WEDNESDAY, JULY 18<sup>th</sup> & THURSDAY, JULY 19<sup>th</sup> • 2012**

**HUGE 2-DAY CONTRACTORS EQUIPMENT & TRUCK AUCTION • PHILADELPHIA, MISSISSIPPI  
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# News You Can Use

## McMillan *continued from p. 15*

said ACCA Executive Director Sonny Brasfield. “Alabama counties are better off because of the bills he has sponsored and his leadership as a committee chairman.”

The admiration flows both ways, with McMillan saying that from his earliest days as a legislator he has always appreciated the hard work put in by the ACCA staff.

Chairman Bob James of the Baldwin County Commission has seen McMillan’s work ethic firsthand. “He is a great asset for the county and the commission,” James said.

McMillan said he has always been interested in local government.

“I enjoy working with local elected officials, and I envy them to some extent,” McMillan said. He knows that their offices are “24 hours a day, seven days a week” and that they cannot even go get a hamburger without a constituent bending their ears issues.

“They are more hands on and can see the fruits of their labors more readily than we can,” he said. “Sometimes it takes three to five or 10 years to pass a good bill.”

That last statement could easily be referring to some of his work with ACCA. Subdivision regulations in the municipal planning jurisdiction, which became law in 2012, took only two years. But the Omnibus Pay Act of 2000 was introduced every year for five years before it became law. McMillan carried the bill every one of those years, and he worked between sessions to bring the different sides together. In the end, he had a consensus bill supported by ACCA and all the other groups of elected officials whose salaries were affected.

Currently, McMillan also serves on the House Ways and Means Education and Baldwin County Legislation committees. His district, House District 105, includes the lower end of Baldwin County, roughly everything south of Robertsedale.

His knowledge of the legislative process won notice from House Speaker Mike Hubbard, who tapped him to draft guidelines to help the GOP’s new slate of committee chairmen run their meetings.

“Several of the longer-serving legislators thanked me for it,” McMillan said. “(Republicans) never had committee chairs. I felt like I had contributed after all these years.”

His leadership is important to ACCA outside the State House too. McMillan serves faithfully on the board of the Alabama Local Government Training Institute, ACCA’s partnership with Auburn University to provide professional development for county commissioners. ALGTI also oversees the County Government Education Institute, the professional development program for county employees.

Though McMillan says representing Baldwin County is really a full-time job, he still has a real estate office in Bay Minette. He is a past president of the Alabama Realtors Association, and has also served on the National Citizens Advisory Committee to the Office of Coastal Zone Management.

He and his wife Gayle, a retired teacher, live in Gulf Shores. They have two children and six grandchildren.

So, how long will McMillan continue paying his “civic dues” as he calls them? “As long as the good people of Baldwin County will give me the opportunity and I feel like I’m physically capable of doing a good job,” he said.

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# Making law enforcement safer

## Insurance funds invest in training and support for county jails and sheriff's offices

Counties are on the front lines of providing public safety, and it's a high-risk business.

Risk can mean two things – danger to valuable county employees and to county budgets.

That's why the Association of County Commissions of Alabama's Self-Insurance Funds are investing in making law enforcement safer.

"It's no surprise that jails and sheriff's offices are the most expensive county operations to insure," said Sonny Brasfield, ACCA executive director. "The good news is that there are things we can do to reduce that risk and prevent the preventable."

The following new programs continue the funds' long history of investing in training and support for county employees:

- Training for jailers on defending against prisoner litigation through a partnership with the Alabama Jailers Association;
- Computer software for jails to help them stay on top of the fast-changing legal environment;
- Training for drivers of emergency vehicles.

## From the Cover



“We realize that to control the losses, the cost of this training and software is an expense we’re more than willing to pay because it really does reduce claims,” said Henry van Arcken, ACCA’s director of insurance services. “Sometimes you have to spend money to save money.”

In the liability fund alone, law enforcement represents roughly half the open claims – some \$10 million in expected probable costs. And law enforcement is only one of seven lines of liability coverage.

Many counties are members of the ACCA Self-Insurance Funds for liability or workers’ compensation coverage. The funds help counties optimally finance and manage risk through effective claims management, strong loss control services, exceptional legal representation and sound investment policy.

To learn more, visit [www.alabamacounties.org/insurance](http://www.alabamacounties.org/insurance).



### Counties make strides on safety

Many members of the ACCA Self-Insurance Funds have already taken big steps to improve safety and reduce insurance losses through their participation in the Safety Incentive Discount Program.

Members that complete all nine program requirements will be eligible for incentive payments. These payments could total as much as \$792,000 in the program’s first year.

More information about the Safety Incentive Discount Program is available to fund members at [www.alabamacounties.org/insurance/resources/safety/](http://www.alabamacounties.org/insurance/resources/safety/).





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## From the Cover

### Supporting our jails

#### Strategic training, new legal tool to help counties stay out of court

From an insurance perspective, one of the riskiest things a county does is run a jail.

It is a 24-7 facility filled with people who cannot function in society. This delicate operation runs on a super-tight budget with a staff too-often characterized by high turnover and scant training. And the rules for proper treatment of prisoners change constantly because of court rulings.

Throw frequent overcrowding into the mix, and it sounds like a recipe for disaster.

“We’re in a dangerous business,” said Association of County Commissions of Alabama Executive Director Sonny Brasfield, “and the legal repercussions for our mistakes are significant – and costly.”

#### Reasons to help

That danger is easy to quantify with information from ACCA’s Self-Insurance Funds. In the liability fund, at present there are 82 open jail-related claims with a combined estimated probable cost of more than \$2 million.

In workers’ compensation, there are fewer open claims, but the claims are more costly. Currently there are 69 open claims with a combined estimated probable cost exceeding \$4 million.

The liability fund provides coverage for 55 counties with more than 9,000 jail beds combined. The workers’ compensation fund has 59 member counties.

Because these are non-profit self-insurance funds, members share risks. When times are good, surplus is refunded to members or invested to ensure long-term stability. When times are bad, every member shoulders the burden.

Together, the funds are expected to refund \$1.2 million at the ACCA convention. Most years both funds have been able to pay refunds.

*continued on p. 22*

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# From the Cover

## Jails *continued from p. 21*

“Being a member of a self-insurance fund is like being part of a family, where the successes or misfortunes of one impact everyone,” Brasfield said. “We believe it is wise for the funds to invest in helping members avoid costly missteps whenever possible.”

### Two new types of assistance

For jailers, rules on treatment of prisoners are constantly changing as courts release new decisions. But limited training can make it difficult for frontline employees to stay on top of the latest word on, for example, when strip searches are OK.

“What usually happens is that new employees learn from old employees, and old employees learn from older

employees,” said Steve Morrison, jail administrator and chief deputy in Madison County. “They only learn what’s inside that jail.”

To help avoid lawsuits, ACCA is sponsoring two types of assistance for jailers. First, ACCA is partnering with the Alabama Jailers Association to provide strategic training on liability at the group’s October conference. Second, ACCA will soon provide counties in the insurance funds with a free legal tool that helps jailers stay abreast of the court rulings.

“We can only be successful if we share resources and information,” said Morrison, who is second vice president of the Alabama Jailers Association.

### Alabama Jailers Association Conference

Featuring of training from:

- National Institute for Jail Operations on “Proactive Liability Management: Defending Against Prisoner Litigation;”
- Randy McNeill, an Alabama-based expert in jail defense.

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For information about registration and fees, contact Marianne Adams at 256-825-1032



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# From the Cover

“I’m extremely proud the Association of County Commissions is willing to partner with us.”

This assistance also represents a closer partnership between county commissions and sheriffs, and Calhoun County Sheriff Larry Amerson welcomed the assistance.

“We really need to help our folks in the jails, and we need to help defend ourselves against lawsuits – especially the ones that are avoidable,” said Amerson, president of the National Sheriffs’ Association.

## Strategic training

Participants in the Alabama Jailers Association’s conference will get training from the National Institute for Jail Operations, which is connected to the National Sheriffs’ Association, and Webb & Eley, a Montgomery law firm.

## The presenters will be:

- Gary DeLand, who is executive director of the Utah Sheriffs’ Association. He formerly served as commander of the jail division for the Salt Lake County Sheriff’s Office and as executive director of the Utah State Department of Corrections.
- Carrie Hill, a lawyer and criminal justice consultant. She has 25 years of experience in corrections, including a stint as general counsel for the Utah Department of Corrections.
- Randy McNeill, a partner at Webb & Eley who specializes in jail defense. He has more than 20 years of experience as a prosecutor, including time as chief deputy

district attorney in Montgomery County.

Topics for the professional development will include:

- Healthcare Liabilities and Legal Issues;
- Prison Rape Elimination Act;
- Utilizing Prisoner Grievance Systems;
- Adoption/Implementation of Policies and Procedures;
- Proactive Approach to Protect Against Administrative Liability;
- Providing Comprehensive Training for Staff;
- Use of Force;
- Testifying in Court;
- Civil Rights Issues.

## Legal tool



**Amerson**

For counties to have a strong defense against lawsuits from prisoners, it is critical that jail policies and procedures are kept current with the latest

court rulings. When jail rules do not match the latest court decisions, the county is on shaky ground.

A handful of Alabama counties already use the legal tool ACCA is going to provide to counties that are insurance fund members. The tool, an online database called the Alabama Legal-Based Guidelines, helps counties develop and maintain sound jail policies and procedures.

*continued on p. 24*

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## From the Cover

**Jails** *continued from p. 23*

### Reimbursement for jail management training

The ACCA Liability Self-Insurance Fund continues to offer reimbursement to member counties when jailers complete a certified jail management training course.

Reimbursement is for the amount of course tuition only and is not to exceed \$285.

Request for reimbursement must include a copy of a certification of completion issued by a Police Officers Standards and Training-certified organization or institution.

Counties are limited in the number of reimbursements they may receive per year based on population.

For more information, contact Henry van Arcken at 334-263-7594 or [hvanarcken@alabamacounties.org](mailto:hvanarcken@alabamacounties.org).

Calhoun has been using it for several years, and Amerson said it makes it as though he had a team of attorneys working

full-time to conduct research on new court rulings as they are handed down.

“We may have a law on the books in Alabama that says we’re supposed to do things a certain way,” Amerson said. “But it’s important that we follow what the court tells us to do, because it supersedes state law.”

In Calhoun, jail staff members review a certain number of jail policies every quarter, said Amerson, who actually started his law enforcement career as a jailer. “This way, what we’re doing we can be sure is going to be upheld by the court,” he said.

Madison County uses the guidelines too, and Morrison praised the way they pinpoint what elements judges look for. “It changed our entire policy on use of force,” he said.

ACCA found overwhelming support among sheriffs for the guidelines, which will be available this fall.

For more information about either the training or the legal tool, please contact John Hamm at 334-263-7594 or [jhamm@alabamacounties.org](mailto:jhamm@alabamacounties.org).

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# From the Cover

## Training for drivers designed for emergencies

Before September, the Association of County Commissions of Alabama's Self-Insurance Funds will have rolled out another new training opportunity for members. The online emergency vehicle operation course has the potential to save more than dollars – it can help save lives as well.



**Jones**

"Where do we sign up?" was Lee County Sheriff Jay Jones's reaction when he learned about the soon-to-be-available training. In his experience, deputies are at the greatest risk for on-the-job injury when driving their patrol cars.

The track record of county government in Alabama backs up Jones' view. Motor vehicle accidents are a large source of claims for both the liability and workers' compensation funds, said Henry van Arcken, ACCA's director of insurance services.

People often expect speed to be the big issue, but Jones said the real problem areas are intersections, where emergency vehicles are allowed to bypass road signs and traffic lights.

Today's vehicles allow less exterior noise in, so the general motorist doesn't see or hear emergency vehicles," he said. Even if lights are flashing and a siren is wailing, "we have to assume 'these people don't see me until I see them see me.'"

With that reality in mind, the computer-based training course offers modules about specific situations, such as the steps to go through when approaching a busy intersection and the different steps to go through depending on your distance from the intersection.

There is a test at the end of each module, and participants must make a perfect score to get credit for the module.

Unlike a computer simulation complete with steering wheel and pedals for braking and accelerating, participants will be able to do their training at any computer with internet access. Modules could be completed at the office or at home if necessary.

This course continues the insurance funds' support of training for drivers. The funds have long reimbursed member counties for skid-car training, which allows drivers to safely practice driving in skid situations. Reimbursement is \$100 per employee, and it is available for both county commission



and sheriff's department employees.

Counties are limited in the number of

reimbursements per year as determined based on population.

Jones said the skid-car training had been "very, very helpful" for both deputies and jail staff.

"Personally, I believe that training and education are the key to making sure we're able to perform our jobs in an efficient and proper manner," Jones said. "Without that, I don't see how any organization will be successful."

For more information about the emergency vehicle operations course or skid-car training reimbursement, please contact Henry van Arcken at 334-263-7594 or [hvanarcken@alabamacounties.org](mailto:hvanarcken@alabamacounties.org).

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## Administrators need special brand of leadership, Dendy says

The key to succeeding as a county administrator is relationships with elected officials -- beyond the commission -- and the county department heads, says John Dendy, Chambers County administrator.

"If you don't have good working relationships with them, you can't expect them to help you in areas you need help," he said.

Dendy should know because he has decades of experience working with counties from the inside and outside. He first got to know county finances as a county auditor for the Department of Examiners of Public Accounts, and then Lee County hired him away to be its administrator. He

worked there for 16 years before retiring, but he has come out of retirement three times to serve as interim administrator for counties that were in a pinch. This last interim hitch turned into a permanent job.

Now 70, he works three days a week in Lafayette, which is Chambers' county seat.

Chambers County Commission

Chairman Wayne White said he has known Dendy for 40 years, and he takes credit for recruiting him to the county. "As chairman, I'm going to John before I make a decision because I know he knows," said White, himself a county government veteran with 20 years as a commissioner. Dendy rarely responds to questions with "maybe" or "let me check into that." "Most of the time he's going to give you an answer, and he can come right back with it."

Dendy believes that to be effective, administrators need to exert a special kind of leadership with elected officials. "To lead, you've got to get beside somebody," he said. "The best leadership is side-by-side walking together."

That view might be news to some, who see the administrator's primary job as getting along with the county commissioners. The commissioners have hiring and firing authority

over the administrator, so getting along with them is a given. But it is important to also keep in mind those other elected officials, such as the sheriff, probate judge and revenue commissioner. They are bound by the county budget even if they do not get to vote on it.

Take the sheriff, for example. Dendy said it takes a lot of resources to run the sheriff's office and jail, which are major services for the county. "You can't dictate to him what he can do," he said. "You've got to use leadership. You should help them manage their responsibilities."

Josh Harvill, Chambers County's new engineer, said Dendy is equally skilled at working with and communicating with county department heads. "He goes out of his way to help me understand things, to teach me about finance and accounting," Harvill said. "He has a really large library of knowledge."

Dendy earned an associate's degree in accounting from Massey-Draughton Business College in Montgomery in 1963. He worked a few years in the private sector, before going to work for the state, first in the Department of Revenue.

It was 1985 when Hal Smith, then Lee County's probate judge and chairman, convinced Dendy to leave the Examiners and enter county government. At the time, Lee County was struggling financially, Dendy said, but he steered the county through major capital projects to complete its justice center and



**Dendy**

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## News You Can Use

renovate the courthouse. “When I left, they were in pretty good position financially,” he said.

Smith retired from public office in 2001, and “I decided I’d go along with him,” Dendy said.

But retirement didn’t stick for Dendy, who lives on Lake Martin near Dadeville. Tallapoosa County’s administrator took another job, and he was recruited for that interim position by Bill Thweatt, then a county commissioner. (Thweatt was succeeded in office by his widow, Emma Jean Thweatt.)

Then administrator Patrick Simms left Chambers County for the job in Etowah County, and Dendy got another call to serve as interim. “And then I went back out to pasture,” he said.

A few years ago, Chambers County called again looking for an interim administrator. This time the job turned into something longer lasting. Dendy is on a two-year contract through December. “I’d said I would (continue) as long as I don’t have family obligations and my health holds up,” he said.

If Dendy stays on the job beyond his current contract, he will have plenty to keep him busy. “Our biggest challenge right now is the ATRIP program. Matter of fact we’re trying to find ways to match,” he said, referring to the Alabama Transportation and Rehabilitation Improvement Program. ATRIP is a state bond issue funded with federal dollars to improve local roads and bridges, and it requires a 20 percent

local match. Other projects on the horizon include major maintenance to the jail and improvements to the county office building.

Asked about his biggest accomplishment in Chambers

County, Dendy goes back to the importance of getting along with all of a county’s officeholders. “My relationships with elected officials in Chambers County have been outstanding,” he said.

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## Wheels already turning on 9-1-1 changes from Act 2012-293

Sweeping changes are already underway for 9-1-1 systems across Alabama courtesy of Act 2012-293, even though the new law has staggered effective dates.

The new statewide fee will not kick in until October 2013, but Gov. Robert Bentley has appointed the Statewide 9-1-1 Board that will set it.

Bentley appointed members of the 9-1-1 community recommended by Alabama Association of 9-1-1 Districts. Representing the odd-numbered Congressional districts for four-year terms are: Christine Heger, Baldwin County, District 1; Donnie Smith, Chambers County, District 3; Ernie Blair, Huntsville-Madison, District 5; and Melissa Dove, Wilcox County, District 7.

The remaining three representatives of the 9-1-1 community to serve on the state board initially are members of the existing Commercial Mobile Radio Services Board. They are Bill Brodeur, Etowah County; Johnny Hart, Marshall County; and Roger Wilson, Walker County. Their terms expire March 31, 2014. Then AAND will recommend replacements from even-numbered Congressional districts.

The remaining members of the 13-member board represent different sectors industry. The governor appointed Charles Wayne Hutchens, AT&T; John Nettles, Pinebelt Telephone & Wireless; Jerry Renfroe, Telecommunications Association of the Southeast; Kevin Grimes, CenturyLink; Riley Sikes Blount, Alabama Cable Telecommunications Association; and Mark Brown, Charter Communications.

Now that the board is appointed, it will begin a complicated process to set the statewide fee on all services – traditional land lines, traditional post-paid wireless, pre-paid wireless, voice-over-internet and any other technology that can access 9-1-1.

The board will propose a single statewide rate to provide each district its baseline funding. The law provides for the possibility of adjustments based on the consumer price index and whether the rate is generating enough money to level fund all districts.

The rate proposed by the statewide board will be reviewed by the Permanent Oversight Commission – composed

### Key benchmarks

#### Sept. 1, 2012

New process for collecting existing fee on prepaid wireless is effective.

#### Nov. 1, 2012

Deadline for 9-1-1 districts to provide financial information to the Department of Examiners of Public Accounts

#### Oct. 1, 2013

New statewide fee is effective.

primarily of legislators – that can change the rate based on facts it uncovers. The statewide board would either accept that change or, by supermajority vote, utilize its proposed rate.



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*Cleburne County courthouse before the renovation.*

# Cleburne County gives facelift to 1907 courthouse



The renovation project for the Cleburne County courthouse in Heflin started at the top, with a new roof and repairs to the metalwork and cornices around the dome, said Steve Swafford, county administrator and EMA director.

The building, which dates to 1907, was originally heated with fireplaces, evidenced by a few remaining chimneys that had become hazardous eyesores, he said. So, the project's first and most expensive phase also included removing the chimneys.

In the second phase, the exterior of the whole building was repainted with historically correct colors. As part of the new color scheme, the dome was repainted from silver to gold and a new Lady Justice figure was added to the dome's peak.

The gold on the dome has special significance, Swafford said, because of gold mines in the county's Arbacoochee community.

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# News You Can Use



*Cleburne County courthouse after the renovation.*

The third and final phase is scheduled to begin soon. It will involve replacing all windows throughout the building, he said.

The project budget is \$650,000, and the county is funding it from reserves, he said.

The building 120 Vickery Street in Heflin is just one block off Ross Street, the town's main drag.

Today the historic courthouse houses offices for the probate judge, revenue commissioner, board of voter registrars, board of veteran' affairs, circuit clerk and district judge.

The county's administrative offices have relocated to the Public Safety and Administration Center at the Mountain Center, a separate structure roughly two miles away.

## Is your county a candidate for Courthouse Before & After?

Courthouse Before & After is a new feature in County Commission magazine designed to spotlight significant investments in Alabama's courthouses. These buildings, whether historic or modern, serve as the county's front door, and they can play a role in a county's identity. Far from being just another bland government office building, citizens often form special attachments to courthouses because of life milestones that are marked there, such as getting a first driver's license or a marriage license.

If your county is in the process of a courthouse renovation project, please email Sallie Gowan at [sgowan@alabamacounties.org](mailto:sgowan@alabamacounties.org).



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### AAEM recognizes excellence in emergency management

The Alabama Association of Emergency Managers announced awards at its 2012 conference in June.

AAEM's top award went to Mindy Nash, an administrative assistant at the Shelby County Emergency Management Agency. She took home the Pat Neuhauser Spirit of EMA award. It recognizes individuals who demonstrate a high level of enthusiasm in promoting emergency management, a willingness to share and serve as well as embodying the qualities of dedication, faithfulness and loyalty.

"Mindy Nash possesses all of these qualities and much more," said AAEM 2012-2013 President Mike Evans. "She has a very demanding job in Shelby County, but always finds the time to promote and serve the Alabama Association of Emergency Managers, and she gives 110 percent when she performs any duty and is always the first one to volunteer to help."

Nash is a past AAEM secretary and chair of the Training and Conference Committee. She also holds the Certified Local Emergency Manager certification through the Alabama Emergency Management Agency.

Other honorees included:



*Mindy Nash from Shelby County EMA accepts AAEM's Pat Neuhauser Spirit of EMA Award from Eric Jones, immediate past president of AAEM.*

- Ronnie Adair, director of Mobile County EMA, received the President's Award.
- Madison County volunteer Rolf G. Goedhart won the Alfred T. Moore Memorial Volunteer Award, recognizing a volunteer of 5 years or more who has demonstrated loyalty and willingness to serve at a moment's notice.

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# News You Can Use

- The Recovery Program of the Year was jointly awarded to the Madison County Emergency Management



**Geodhart**

Agency and the Long Term Recovery Committee of Madison County. This award recognizes programs that restore affected communities to their previous states.

- Anthony Clifton, DeKalb County's EMA director, was named Rookie of the Year, an award honoring someone with less than two years of experience who has demonstrated innovative methods.
- Steve Swafford, Cleburne County's EMA director and county administrator, was recognized with the Career Achievement in Emergency Management Award. It honors emergency managers with more than 10 years of experience who have distinguished themselves through outstanding service to their community and state.

At the conference, AAEM also awarded professional certifications to 41 emergency managers from around the country.

"AAEM's purpose is to strengthen our ability individually and collectively to take care of the safety of our communities in extraordinary circumstances, and professional certification is at the heart of that mission," said Evans. "My hat is off to every person who has made this significant investment in their on-the-job effectiveness."

The Alabama Association of Emergency Managers is a professional organization that provides training and



**Swafford**

support to emergency managers. AAEM is an affiliate of the Association of County Commissions of Alabama.



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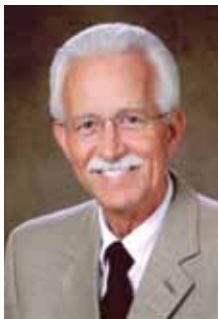
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