

82-00101

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NOV 25 1981

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Honorable James L. Sawyer
Probate Judge of Coffee County
Coffee County Courthouse
Enterprise, Alabama 36330

Probate Judges - Compensation -
Expenses

Probate Judge of Coffee County,
as member of the County Comm-
ission, can receive expense
allowance provided by Act No.
321, Acts of Alabama 1977.

Dear Judge Sawyer:

Acknowledgment is made of your request for the opinion
of the Attorney General as to the following question:

In accordance with Title 11-3-1, the Judge
of Probate of Coffee County also serves as
a member and the Chairman of the Coffee
County Commissioner's Court. . .

My question to you is: Is the Judge of
Probate of Coffee County under the pro-
visions of Act No. 460 adopted August
18, 1976, and Act No. 321 adopted April
28, 1977, entitled to receive the salary
and expense allowance as therein provided?

Honorable James L. Sawyer
Probate Judge of Coffee County
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Considering each of the Legislative acts mentioned and enclosed in your opinion request, the following facts can be gathered: By Act No. 1055, Acts of Alabama 1971, p. 1902, the governing body of Coffee County was authorized to pay each member of the County Commission an expense allowance of \$150.00 per month. By Act No. 103, Acts of Alabama 1975, p. 2784 as amended by Act No. 460, Acts of Alabama 1976, p. 577, the Probate Judge of Coffee County was put on a salary basis. Furthermore, Act No. 460 contained the following provision:

"The salaries hereinabove provided shall be payable in equal monthly installments from the general fund of such counties and shall be paid in lieu of any salaries, expense allowances, or other compensation heretofore prescribed by law for such officers, . . .

Therefore, by this provision of Act No. 460, the Probate Judge was prohibited from receiving the expense allowance provided by Act No. 1055, Acts of Alabama 1971 because the provision specifically stated that the salary provided by Act No. 460 was in lieu of all expense allowances heretofore prescribed by law.

By Act No. 321, Acts of Alabama 1977, p. 422, each member of the Coffee County Commission was given a monthly expense allowance of \$450.00. The expense allowance provided by Act No. 321 was not affected by the previously quoted provision of Act No. 460, Acts of Alabama 1976 because it was granted subsequently to Act No. 460.

Therefore, in answer to your question, the Probate Judge of Coffee County, as a member of the County Commission, is entitled to receive the \$450.00 per month expense allowance provided by Act No. 321, Acts of Alabama 1977.

Honorable James L. Sawyer
Probate Judge of Coffee County
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If our office may be of further assistance, please
do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By-

A handwritten signature in cursive script that reads "Lynda F. Knight". The signature is written in dark ink and is positioned above the printed name and title.

LYNDA F. KNIGHT
Assistant Attorney General

LFK:ft