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MAR 3 1986

Honorable Ken Kvalheim
House of Representatives
421 Dogwood Drive
Mobile, Alabama 36609

Municipalities - Mayors - Airport Authorities - Officers and Offices

A City Councilman may serve on the Airport Authority.

Dear Representative Kvalheim:

Reference is made to your request for an opinion regarding the following question:

> Does Act No. 85-229 prevent the Mayor of Mobile from appointing a city councilman to the Mobile Airport Authority?

The Mayor of Mobile is authorized by Act No. 85-229 to appoint the members of the Airport Authority. Section 397 (3), Act No. 85-229, Code of Alabama (1975). However, Section 17 of the Act states, "No councilman shall hold any other public office except that of notary public or member of the national guard or naval or military reserve...." The question then becomes whether membership in the Airport Authority is considered a "public office" under the terms of the Act.

In reviewing Act No. 85-229--more specifically Section 17 of that Act--the Attorney General is of the opinion that the intent of the aforementioned section was to keep a councilman from holding two offices of profit. In view of this interpretation, the issue can be settled by an examination of whether or not the members of the Airport

Authority receive compensation for their service.

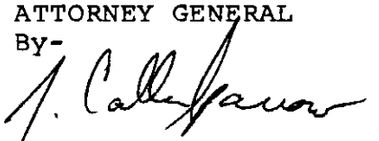
Section 280 of the Constitution of Alabama, 1901 prohibits an individual from holding more than one "office of profit" in this State. In Opinion of the Clerk, Opinion No. 27, 386 So.2d 210 (Ala. 1980), the Supreme Court indicated that an "office of profit" is defined as one for which compensation is received. The Supreme Court also held that an expense allotment or reimbursement for expenses is not compensation; and, therefore, if the members of the Airport Authority were to receive only an expense allowance or reimbursement for expenses, a city councilman could certainly serve in both capacities. Van Hart v. deGraffenreid, 388 So.2d 1196 (Ala. 1980).

In answer to your question, it is the opinion of the Attorney General that Act No. 85-229 does not prevent the Mayor of Mobile from appointing a city councilman to the Mobile Airport Authority.

I do hope I have adequately answered your inquiry. If, however, I may be of future assistance, please do not hesitate to contact me.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL
By-



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