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STATE OF ALABAMA

APR 27 1990

90-00250

Honorable John W. Pemberton
Clerk
State of Alabama
House of Representatives
Montgomery, Alabama 36130

Legislature - Compensation -
Officers and Offices

A candidate certified as the
winner of an election for a seat
in the Legislature does not
officially hold office until a
certificate of election is issued
to him.

Dear Mr. Pemberton:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

If a certificate of election has not been
issued to a candidate who was certified as
the winner of an election for a seat in the
Alabama House of Representatives, should
that candidate receive his checks for that
office or should they be held?

FACTS AND ANALYSIS

Code of Alabama 1975, § 17-14-24 provides:

"The secretary of state shall, within
10 days after receiving the returns of
election from the judge of probate of each
county, furnish, from a count of the actual

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vote cast, as the same appears by the returns certified to him, certificates of election to members of the legislature and to members of congress."

Based upon this provision, a candidate for the legislature certified as the winner of an election does not officially hold elective office until a certificate of election has been issued to him. Accordingly, the clerk of the House should withhold checks for salary and expense allowance for that office until a certificate is issued.

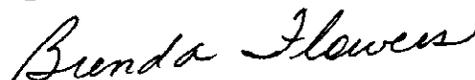
CONCLUSION

A candidate certified as the winner of an election for a seat in the Legislature does not officially hold office until a certificate of election is issued to him.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:



BRENDA FLOWERS
Assistant Attorney General

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