

OFFICE OF THE ATTORNEY GENERAL



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Honorable J. E. Turner
Member, House of Representatives
P. O. Box 787
Citronelle, AL 36522

County Commissioners - Term
of Office - Offices and
Officers

The Mobile County Commissioners
elected in 1992 begin their
terms of office on the first
Monday after the second
Tuesday in January 1993, and
their terms expire six days
next following the day of the
general election in November
1996.

Dear Representative Turner:

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

QUESTION

When do newly elected county
commissioners in Mobile County take office
given the language of two local acts and
the general law?

FACTS AND ANALYSIS

Under general state law, the terms of county
commissioners are established at Code of Alabama 1975,
§ 11-3-1. This section was amended in 1989 to read as
follows:

"(a) Unless otherwise provided by local law and as otherwise provided in subsection (b) hereof, there shall be in every county a county commission, composed of the judge of probate, who shall serve as chairman, and four commissioners, who shall be elected at the time prescribed by law and hold office for four years from the first Monday after the second Tuesday in January next succeeding their election and until their successors are elected and qualified."

"(b) Beginning with the next term of office for each county commissioner, such term shall expire six days next following the day of the general election at which the successor to that office is elected. Thereafter each such county commissioner shall be elected at the time prescribed by law and shall hold office from 12:01 A.M. of the seventh day next following his election and until his successor is elected and qualified." (Emphasis added.)

The Mobile County Commission was established pursuant to a local act, Act No. 181, Acts of Alabama 1957, page 233. Section 2(a) of this Act contained language almost identical to that found in § 11-3-1(a) with respect to the term of office. Section 2(a) stated:

". . . The members so elected shall hold office for terms of four years from the first Monday after the second Tuesday in January next following their election, and until their successors are elected and qualified."

Section 2 of Act No. 181 was amended in 1985 by Act No. 85-340 to provide that county commissioners must reside within districts. The language quoted above relating to the term of office was deleted from Section 2 when it was amended in 1985. Thus, in order to determine the terms of office for Mobile County Commissioners, we must refer to the general law found in § 11-3-1 which was amended in 1989.

It is assumed that your question refers to newly elected commissioners in the 1992 general election. However, we must first determine when the terms of the county commissioners

elected in 1988 end. Since § 11-3-1 was amended in 1989, the provisions of subsection (b), which were added by the amendment, do not apply to the county commissioners who began their terms of office in 1988. Opinion to Honorable John Hollis Jackson, Jr., Attorney, Chilton County, dated July 10, 1992, A.G. No. 92-00340. The terms of office of county commissioners elected in 1988 are governed by subsection (a), and they hold office until the first Monday after the second Tuesday in January 1993. The county commissioners elected in 1992 begin their terms of office in January of 1993, but their terms of office will expire pursuant to the provisions of subsection (b) of § 11-3-1. Thus, their terms of office will expire six days next following the day of the general election in November of 1996.

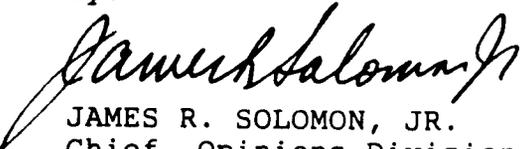
CONCLUSION

The terms of office of the Mobile County Commissioners are established pursuant to Code of Alabama 1975, § 11-3-1. The commissioners elected in 1992 begin their terms of office on the first Monday after the second Tuesday in January 1993, and their terms expire six days next following the day of the general election in November 1996.

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

Sincerely,

JIMMY EVANS
Attorney General
By:


JAMES R. SOLOMON, JR.
Chief, Opinions Division

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