

OFFICE OF THE ATTORNEY GENERAL



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MAR - 1 1995

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Honorable J. Robert Faulk
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145 West Main Street
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Probate Judges - Compensation
- Funds

Proposed amendment to
Constitution of Alabama of
1901 submitted to the people
at November 8, 1994, general
election which did not
receive requisite majority
statewide not ratified.

Dear Mr. Faulk:

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

QUESTIONS

1. Is a proposed constitutional amendment relating to the salary of the Probate Judge of Autauga County, which was defeated statewide, but which received a majority of votes in the affirmative in that county, effective commencing with the current term of office or with the next election of a judge of probate?
2. Can an amendment passed on the same ballot as the judge of probate election be effective for the judge of probate elected at that time, or for the judge of probate

elected at the next election after the amendment passed?

3. Do Article XVIII, Amendment 425 and the Amendment of that Amendment mean that a local bill placed on the statewide ballot is effective if it is defeated statewide, but passed in the affected county?

FACTS, LAW AND ANALYSIS

Your question arise, in part, out of the fact that the U.S. Department of Justice disapproved certain elements of the so-called Callahan Amendment, Amendment 425 to the Alabama Constitution of 1901. To respond to those concerns, the legislature proposed an amendment by Act No. 94-611 which was submitted for ratification at the November 8, 1994, general election. Pending such ratification, constitutional amendments affecting only one county were subject to the provisions of Amendment 24, which amended Section 284 of the 1901 Constitution of Alabama.

At the November 8, 1994, general election, an amendment proposed by Act No. 94-342 which, if approved, would have repealed Amendment 493 relating to the compensation of the Probate Judge of Autauga County, was submitted to the voters of the state. It failed to pass statewide, but received a majority of affirmative votes in Autauga County. Because it was submitted prior to ratification of the "new Callahan Amendment," it could only be ratified by an affirmative majority, statewide; therefore, it was not ratified. Thus, the compensation of the Probate Judge of Autauga County is controlled by the provisions of Amendment 493, which remains in effect.

In view of the foregoing, your other questions appear to be moot.

CONCLUSION

Proposed amendment to the 1901 Constitution of Alabama submitted on November 8, 1994, which affected only one county, and did not receive a majority of affirmative votes cast statewide at that election, was not ratified.

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I hope this sufficiently answers your questions. If our office can be of further assistance, please contact Philip C. Davis of my staff.

Sincerely,

JEFF SESSIONS
Attorney General
By:

A handwritten signature in black ink, appearing to read "James R. Solomon, Jr.", written in a cursive style.

JAMES R. SOLOMON, JR.
Chief, Opinions Division

JS/PCD/jho
F2.95B/OP