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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Jay M. Ross
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205 Government Street
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Probate Judges – Cost-of-Living Raises –
Compensation

The Mobile County Probate Judge is entitled to receive the same cost-of-living increase set out in Act 2007-297 that increased the salary of the Mobile County Circuit Court Judge.

Dear Mr. Ross:

This opinion of the Attorney General is issued in response to your request on behalf of the Mobile County Commission.

QUESTION

Is the Mobile County Probate Judge entitled to receive the cost-of-living increase set out in Act 2007-297?

FACTS AND ANALYSIS

The position of a probate judge is an elected position. In Mobile County, initially the salary of the probate judge was set pursuant to Act 443 (1967). That act stated that the probate judge would “be entitled to be compensated in manner and amount equal to the total salary and expense allowance received by circuit court judges. . . .” 1967 Ala. Acts No. 443, 1116. Thereafter, in passing section 24 of the Mobile County Local Amendments, Mobile County determined that the salary of the probate judge could be altered, fixed, and regulated by the Legislature. ALA. CONST. LOCAL AMENDS., Mobile County § 24 (amend. 28).

Act 2007-297 bestows a cost-of-living increase on several persons employed with the state of Alabama. Specifically, the act provides that a cost-of-living increase shall be granted "to all court officials and employees within the Unified Judicial System who serve the trial courts of the state and the Administrative Office of Courts. . . ." 2007 Ala. Acts 2007-297, 535, 536. Your particular inquiry questions whether the salary increase granted in Act 2007-297 increases the income that the Mobile County Probate Judge is entitled to receive because, pursuant to Act 443 (1967), the salary of the Mobile County Probate Judge is tied to the salary of the Mobile County Circuit Court Judge.

This Office has addressed a similar issue in two previous opinions. In an opinion issued to Honorable Lawrence M. Wettermark, Attorney, Mobile County Commission, dated May 4, 1999, A.G. No. 99-00197, this Office determined that the salary of the Mobile County Probate Judge should be increased to equal the salary of the Mobile County Circuit Court Judge as a result of the passage of Act 98-134, which granted an 8 percent salary increase to the circuit judge. In the opinion to Honorable Bobby M. Junkins, Judge of Probate, Etowah County, dated January 5, 1995, A.G. No. 95-00072, this Office again determined that the Etowah County Probate Judge was entitled to receive an 8 percent increase because his salary was tied to the salary of circuit judges whose salaries were increased as a result of Act 94-488.

The language used in Act 2007-297 is similar to the language used in Acts 98-134 and 94-488. Moreover, you informed this Office that, based on Act 2007-297, the salary of the Mobile County Circuit Court Judges has increased. Therefore, based on the foregoing, it is the opinion of this Office that because the Mobile County Probate Judge's salary is tied to that of the Mobile County Circuit Judge, the Mobile County Probate Judge is entitled to have his salary increased as a result of the passage of Act 2007-297, which increased the salary of the Mobile County Circuit Judge.

CONCLUSION

The Mobile County Probate Judge is entitled to receive the same cost-of-living increase set out in Act 2007-297 that increased the salary of the Mobile County Circuit Judge.

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I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General

By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

TK/MMG
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