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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

Honorable Charles R. Singleton
Chairman, Washington County Commission
Post Office Box 146
Chatom, Alabama 36518

Probate Judges – County Commissions –
Chairman

Local Act 92-226, relating to Washington
County, is repealed to the extent that it is
inconsistent with local Act 2011-605.

Beginning with the term of office that
commenced in November 2012, the chair of
the Washington County Commission
("Commission") should be elected by the
Commission from among its membership.

The Probate Judge of Washington County
no longer serves in any role with the
Washington County Commission.

Dear Chairman Singleton:

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

QUESTIONS

(1) In the light of the enactment of local Act
2011-605, who serves as the chair of the Washington
County Commission?

(2) Did local Act 2011-605 repeal local Act 92-
226?

(3) Is the Probate Judge of Washington County a member of the Washington County Commission?

FACTS AND ANALYSIS

Generally, unless otherwise provided by local law, the county commission shall be composed of the probate judge, who serves as chairman, and four commissioners. ALA. CODE § 11-3-1 (2008). Pursuant to general law, a probate judge, serving as the chairman of a county commission, casts the deciding vote in the event of a tie. ALA. CODE § 11-3-20 (2008):

In Washington County, however, local Act 92-226 provides for the following: “The Washington County Commission shall consist of five members” 1992 Ala. Acts 92-226, 554. The act, in describing the limited role of the probate judge, also stated that “[b]eginning on the first Monday after the second Tuesday in January 1993, the Probate Judge of Washington County shall serve as the ex-officio *non-voting* Chair of the Washington County Commission and shall preside at all meetings thereof.” *Id.* at 554(emphasis added).

In 2011, the Legislature adopted Act 2011-605, a local act applicable to Washington County, which provided the following:

Beginning with the term of office which commences in November 2012, each member of the county commission shall serve on a part-time basis and receive a salary of twenty-five thousand dollars (\$25,000) annually, payable in equal monthly installments. The members of the commission shall not receive an expense allowance for serving on a part-time basis except as expressly provided in this act. The chair of the commission shall be elected every nine months by the commission from among its membership.

2011 Ala. Acts No. 2011-605 (emphasis added).

The language in these two local acts is in conflict, but the 2011 act does not specifically reference the probate judge, nor does it specifically repeal Act 92-226. *Id.* Section 6 of Act 2011-605 does, however, state that “all laws or parts of laws which are in conflict with this act are repealed.” *Id.* Moreover, this Office has previously stated the following:

The general rule of statutory construction is that, in resolving conflict between statutory provisions, whenever possible, statutes must be construed *in pari materia* in light of their application to the same general subject matter. *Opinion of the Justices No. 334*, 599 So. 2d 1166, 1168 (Ala. 1992). Where statutes on the same subject matter cannot be reconciled, however, the last expression of the Legislature must prevail. *State v. Bryan*, 285 Ala. 247, 250, 231 So. 2d 118, 121 (1970).

Opinion to Honorable Tom Burleson, Cullman County Judge of Probate, dated September 22, 2000, A.G. No. 2000-248 at 2.

Because Act 2011-605 is inconsistent with Act 92-226 as it relates to the chairmanship of the county commission, the latest legislative pronouncement on the subject must control. Accordingly, it is the opinion of this Office that Act 92-226 is repealed to the extent that it conflicts with Act 2011-605.

Therefore, effective at the commencement of the term of office of the commissioners that began in November 2012, the Probate Judge of Washington County no longer serves as the Chair of the Washington County Commission. Additionally, because prior to the adoption of Act 2011-605, the only role of the probate judge on the Washington County Commission was that of an ex-officio non-voting chair, and because the chair is now elected by the Commission from its membership, the probate judge no longer serves in any role with the Commission.

CONCLUSION

Local Act 92-226, relating to Washington County, is repealed to the extent that it is inconsistent with local Act 2011-605.

Beginning with the term of office that commenced in November 2012, the chair of the Washington County Commission should be elected by the Commission from among its membership.

The Probate Judge of Washington County no longer serves in any role with the Washington County Commission.

Honorable Charles R. Singleton
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I hope this opinion answers your questions. If this Office can be of further assistance, please contact Ben Baxley of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:

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

BRENDA F. SMITH
Chief, Opinions Division

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