

ACT No. 2000 - 108
WO

1 HB76
2 25783-2
3 By Representative McMillan
4 RFD: Local Government
5 First Read: 01-FEB-2000
6 PFD 01/13/2000



1
2 Enrolled, An Act,

3 To provide a system for compensating certain local
4 officials based upon categories of the counties determined by
5 county population; to exclude counties in Categories 1 and 3
6 from the provisions of this act; to allow counties to be
7 exempt from the provisions of this act by the adoption of a
8 resolution prior to October 1, 2000 and to require certain
9 other counties to adopt a resolution before the provisions of
10 this act are applicable in those counties; to repeal Section
11 12-19-90.1 of the Code of Alabama 1975, relating to judges of
12 probate compensated on a fee basis; and to amend Section
13 12-19-90, Code of Alabama 1975, providing for certain fees for
14 services in the offices of the judges of probate of the
15 several counties, to increase certain fees except in counties
16 in Category 2 and Cullman County and update the references to
17 certain proceedings and documents.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. (a) For purposes of determining the
20 amount of annual compensation which a county shall pay to a
21 county commissioner, a judge of probate, a sheriff, a tax
22 assessor, a tax collector, a revenue commissioner, a license
23 commissioner, and an elected assistant tax assessor or
24 collector, the 67 counties of the state shall be placed in
25 categories based on population according to the most recent
26 federal decennial census.

1 The population categories of counties are as
2 follows:

3 Category 1. Population in excess of 450,000.

4 Category 2. Population from 350,001 to 449,999.

5 Category 3. Population from 200,001 to 350,000.

6 Category 4. Population from 50,001 to 200,000.

7 Category 5. Population from 19,000 to 50,000.

8 Category 6. Population of less than 19,000.

9 Section 2. Effective October 1, 2000, the annual
10 compensation which a county shall pay to a county
11 commissioner, a judge of probate, a sheriff, a tax assessor, a
12 tax collector, a revenue commissioner, a license commissioner,
13 and an elected assistant tax assessor or collector shall be as
14 set out below:

15 (a) Sheriff. The annual minimum compensation for
16 each sheriff shall be fifty thousand dollars (\$50,000) which
17 shall be in lieu of any salary and expense allowance currently
18 provided to a sheriff receiving total compensation less than
19 the minimum. Beginning with the next term of office for each
20 sheriff, except as provided in Section 4 of this act, the
21 salary herein provided shall be the minimum compensation
22 payable to the sheriff in lieu of any salary, expense
23 allowance, or other compensation provided by law.

24 (b) County commissioners and judges of probate. The
25 annual minimum compensation for county commissioners and
26 judges of probate in Categories 1, 2, and 3 shall be as

1 provided by local law. Except as otherwise provided in this
2 act and subject to the provisions of Section 4, the annual
3 minimum compensation for county commissioners and judges of
4 probate in Category 4 shall be that amount prescribed by
5 general law on September 30, 2000, plus a 20 percent increase;
6 the annual minimum compensation for county commissioners and
7 judges of probate in Category 5 shall be that amount
8 prescribed by general law on September 30, 2000, plus a 17
9 percent increase; and the annual minimum compensation for
10 county commissioners and judges of probate in Category 6 shall
11 be that amount prescribed by general law on September 30,
12 2000, plus a 15 percent increase.

13 (c) Tax assessors, tax collectors, revenue
14 commissioners, license commissioners, and elected assistant
15 tax collectors or assessors.

16 (1) On and after the effective date of this act,
17 each county commission is authorized to provide an expense
18 allowance to the tax assessor, tax collector, revenue
19 commissioner, license commissioner, elected assistant tax
20 assessor, and elected assistant tax collector in amounts not
21 to exceed ten thousand dollars (\$10,000) per annum. The
22 expense allowance may be phased in over a two-year period as
23 determined by the county commission. At the beginning of the
24 official's next term of office following the provision of the
25 expense allowance authorized herein, the expense allowance

1 shall be included in the base salary of the official and the
2 expense allowance thereupon voided.

3 Deductions from the expense allowances provided
4 under this act shall be made for supernumerary programs, the
5 State Employees Retirement System, or other retirement
6 programs as provided by law, the same as if the expense
7 allowances were salary.

8 (2) Any increase in base salary or expense allowance
9 for a tax assessor, tax collector, revenue commissioner,
10 license commissioner, elected assistant tax assessor, or
11 elected assistant tax collector contained in any act passed in
12 the 1999 2nd Special Session of the Legislature or any other
13 act passed in the 2000 Regular Session shall be credited
14 against any expense allowance provided under this subsection,
15 so that the total increase in compensation for a tax assessor,
16 tax collector, revenue commissioner, license commissioner,
17 elected assistant tax assessor, and elected assistant tax
18 collector does not exceed ten thousand dollars (\$10,000).

19 (d) Any laws to the contrary notwithstanding, no
20 person holding supernumerary office shall be entitled to any
21 increases in compensation or expenses as a result of the
22 implementation of any salary adjustments provided for in this
23 act.

24 (e) If implementation of the salaries in this act
25 increases the salary of an incumbent office holder, the
26 increase shall be paid as an expense allowance until the

1 beginning of the next term of office whereupon the amount of
 2 the expense allowance shall be included in the base salary for
 3 the office holder and the expense allowance shall be voided.
 4 Deductions from the increase shall be made for supernumerary
 5 programs as provided by law as if the increase were salary.
 6 Notwithstanding the foregoing, a county shall pay the salary
 7 increase during a term of office at the beginning of the next
 8 fiscal year if payment of the increase is sanctioned by an
 9 amendment to the Constitution of Alabama of 1901.

10 (f) Notwithstanding this section or any other
 11 provision of this act, neither this section nor any other
 12 provision of this act shall apply to any county in Category 1
 13 or 3 on the effective date of this act.

14 (g) The local governing body of the county may, by
 15 resolution, elect for the county to be exempt from the
 16 provisions of Sections 2, 3, and 9 of this act; provided that
 17 the local governing body shall only be authorized to exempt
 18 the county from all of the sections referenced above, and
 19 provided further that the resolution is adopted after the
 20 effective date of this act but prior to October 1, 2000.

21 Section 3. In addition to the salary provisions set
 22 out in Section 2, the following shall apply:

23 (1) Any full-time county commission chairperson in
 24 Category 4, 5, or 6 who is elected countywide shall receive
 25 additional annual compensation in an amount of five thousand

1 dollars (\$5,000). This additional compensation shall be paid
 2 beginning on October 1, 2000.

3 (2) Any judge of probate in Category 4, 5, or 6
 4 shall receive an additional two thousand five hundred dollars
 5 (\$2,500) in annual compensation if he or she is required to
 6 serve as chairperson of the county commission. This additional
 7 compensation shall be paid beginning on October 1, 2000.

8 (3) Any local official charged by law with the
 9 administration of a "one-stop" tag program shall receive
 10 annual compensation for such administration in an amount not
 11 less than three thousand dollars (\$3,000). Any additional
 12 compensation necessary to increase the official's salary to
 13 three thousand dollars (\$3,000) per year for such
 14 administration shall be paid beginning on October 1, 2000. The
 15 provisions of this subsection shall not affect any local law
 16 that provides annual compensation for the administration of
 17 the "one-stop" tag program in excess of three thousand dollars
 18 (\$3,000).

19 Section 4. (a) Beginning with the fiscal year
 20 commencing on October 1, 2001, the local officials covered by
 21 this act shall be entitled to the same uniform increases in
 22 compensation, including cost-of-living increases, longevity
 23 increases, merit raises, and bonuses that are granted to
 24 county employees by the county commission at the time of the
 25 approval of the county budget. The increases shall be in the
 26 same amount or percentage, as the case may be, as that amount

1 or percentage increase provided to the county's employees;
2 provided, however, no tax assessor, tax collector, revenue
3 commissioner, license commissioner, elected assistant tax
4 assessor, or elected assistant tax collector shall receive an
5 expense allowance as provided in Section 2(c) and an increase
6 under this subsection in the same fiscal year.

7 Except as otherwise provided herein, officials in
8 Category 2 shall be eligible for the cost-of-living increases
9 beginning on October 1, 2000. If the implementation of any
10 cost-of-living adjustment increases the salary of an incumbent
11 office holder, the increase shall be paid as provided in
12 Section 2(e). The base compensation for the purposes of
13 implementation of this subsection shall be that compensation
14 established on October 1, 2000, and shall remain those
15 respective amounts until increased as provided under the
16 provisions of this act.

17 (b) Any provision of this act to the contrary
18 notwithstanding, the Legislature, by local law, may increase
19 the compensation for local officials covered under this act.
20 However, if a local law increases the compensation of a local
21 official, such local official shall not be entitled to any
22 cost-of-living adjustments pursuant to the procedure in
23 subsection (a) of this section, until such time as the total
24 compensation he or she would have received under subsection
25 (a) of this section is equal to or exceeds the increase
26 provided by the local law.

1 Section 5. This act shall be read in pari materia
 2 with Section 40-6A-2, Code of Alabama 1975. All compensation
 3 paid under the provisions of this act to tax assessors, tax
 4 collectors, revenue commissioners, license commissioners,
 5 elected assistant tax assessors, or elected assistant tax
 6 collectors, or any official whose salary is prorated under the
 7 provisions of Section 40-6A-2, Code of Alabama 1975, shall
 8 continue to be prorated and paid from the same funds and in
 9 the same manner as provided under that section.

10 Section 6. Except for officials affected by Section
 11 2(c), no local official receiving compensation in excess of
 12 the minimums prescribed by general law on September 30, 2000,
 13 plus the increases provided in Section 2 shall be eligible to
 14 receive the increases authorized by Section 2 of this act.

15 Section 7. (a) This act shall not be applicable to
 16 local officials whose salaries, prior to the passage of this
 17 act, are tied to the salaries of any state elected officials
 18 nor shall this act apply to local officials on a fee system of
 19 compensation, except as provided in Section 8. Any local act
 20 in effect on October 1, 2000, providing compensation for a
 21 local official in excess of the compensation authorized by
 22 this act shall remain in full force and effect until expressly
 23 amended or repealed by the Legislature.

24 (b) The provisions of this act shall not be
 25 applicable in Barbour, Tuscaloosa, Cullman, St. Clair, Pike,
 26 Henry, Coffee, Russell, Geneva, Dale, or Fayette Counties

1 unless first approved by resolution of the respective county
2 commission.

3 (c) The provisions of Sections 2 and 3 of this act
4 shall not be applicable in Pickens County unless first
5 approved by resolution of the county commission.

6 (d) Provided, however, that if any of the counties
7 listed in subdivision (b) or (c) adopt a resolution after
8 October 1, 2000 to come under the provisions of this act, the
9 provisions of Sections 2, 3, and/or 9 of this act will not
10 become effective in such counties until the beginning of the
11 next succeeding fiscal year.

12 Section 8. (a) Any judge of probate on the fee
13 system shall not be subject to any cap on income after October
14 1, 2000.

15 (b) Effective October 1, 2000, Section 12-19-90.1 of
16 the Code of Alabama 1975, is repealed.

17 Section 9. Section 12-19-90, Code of Alabama 1975,
18 is amended to read as follows:

19 "§12-19-90.

20 "(a) The following fees for service ~~in~~ provided by
21 the probate offices shall be charged and paid into the county
22 treasury or to the judge of probate ~~judge~~ as maybe authorized
23 or required by law:

24 "(1) Probate of will of not more than five pages,
25 whether contested or not, with three certified copies of
26 letters and including ~~partial or~~ final settlement when not

1 more than 10 pages. An additional charge of ~~\$1.50~~ \$3.00 per
2 page for wills over five pages in length and for ~~partial or~~
3 final settlements in excess of 10 pages in length shall be
4 made \$45.00.

5 "(2) Grant of letters of administration with three
6 certified copies of letters of administration and including
7 final settlement when not more than 10 pages (when over 10
8 pages an additional charge of ~~\$1.50~~ \$3.00 per page) 45.00

9 "(3) Grant of letters of guardianship or
10 conservatorship, three certified copies 20.00.

11 "(4) Partial or final settlement of guardianship or
12 conservatorship 15.00

13 "(5) Each additional certified copy of letters
14 testamentary, letters of administration, or letters of
15 guardianship or conservatorship ~~2.00~~ 3.00

16 "(6) Proceedings in filing and granting petition of
17 adoption, including one certified copy of decree for
18 petitioner, one certified copy for the Department of Human
19 Resources, and one copy to the State Bureau of Vital
20 Statistics. (Fee shall apply to each child adopted) ~~20.00~~
21 75.00

22 "(7) Proceedings in legitimations, fee to apply to
23 each child 15.00

24 "(8) Proceedings in change of name ~~10.00~~ 15.00

1 "(9) Proceedings to set aside ~~homestead, whether~~
2 ~~contested or not~~ exemptions pursuant to Sections 43-8-110,
3 43-8-111, 43-8-112, and 43-8-113 35.00

4 "~~(10) Proceedings to set aside dower, whether~~
5 ~~contested or not~~ ~~20.00~~

6 "(b) Fees for services other than those specified in
7 subsection (a) shall be:

8 "(1) Filing petitions and other papers, each ~~1.00~~
9 3.00

10 "(2) Docketing cause ~~5.00~~ 10.00

11 "(3) Issuing each citation, summons, writ, execution
12 for cost or other notice required by law ~~2.00~~ 3.00

13 "(4) Issuing subpoenas to witnesses, each ~~1.00~~ 3.00

14 "(5) Witnesses certificate ~~1.00~~ 3.00

15 "(6) Order of publication 3.00

16 "(7) Posting order of publication, each ~~1.00~~ 3.00

17 "(8) Notice by mail to creditor and heirs, each ~~1.50~~
18 3.00

19 "(9) Each notice not otherwise provided for ~~2.00~~
20 3.00

21 "(10) Issuing commission to take testimony ~~5.00~~
22 10.00

23 "(11) Entering returns of sheriff, printer, or
24 commissioner, each ~~1.00~~ 3.00

25 "(12) Appointment of guardian ad litem, special
26 attorney, or administrator ad litem 5.00

- 1 " (13) Approving bonds ~~5.00~~ 10.00
- 2 " (14) Presiding in noncontested cause or examining
- 3 papers, pleadings, taking testimony, etc. ~~5.00~~ 10.00
- 4 " (15) Presiding in contested cause, per day 25.00
- 5 " (16) Examining vouchers, each ~~1.50~~ 1.00
- 6 " (17) ~~Entering~~ Examining and entering decree or
- 7 other order 3.00
- 8 " (18) Drafting ~~or examining~~ decree ~~5.00~~ 10.00
- 9 " (19) Each certificate with seal ~~2.00~~ 3.00
- 10 " (20) Each certificate without seal ~~1.00~~ 3.00
- 11 " (21) Filing and docketing each claim ~~1.50~~ 3.00
- 12 " (22) Filing and recording, including recording
- 13 documents filed for record, irrespective of size type, per
- 14 page ~~2.50~~ 3.00
- 15 " (23) Filing and recording all oil, gas, mineral
- 16 and/or coal leases, per page ~~7.50~~ 3.00
- 17 " (24) If the instrument conveys any interest in real
- 18 or personal property within this state and recites more than
- 19 two grantors or grantees, mortgagors or mortgagees, lessors or
- 20 lessees, transferors or transferees, assignors or assignees,
- 21 buyers or sellers, or vendors or vendees, an additional fee
- 22 for indexing each name in excess of two entered in the direct
- 23 index or two entered in the reverse index 1.00
- 24 " (25) ~~a~~ Copy of an instrument, per page ~~(not to~~
- 25 ~~exceed 10 pages);~~ and 1.00

- 1 ~~"b. For all pages in excess of 10, an amount per~~
2 ~~page not to exceed .50~~
- 3 "(26) Each entry of an estray, to be paid by taker
4 ~~1.00~~ 3.00
- 5 "(27) Each record of a mark or brand ~~1.00~~ 3.00
- 6 "(28) Filing and recording certificate of
7 incorporation organized as a profit-making organization ~~35.00~~
8 50.00
- 9 "(29) Filing and recording certificate of
10 incorporation organized as a nonprofit corporation 15.00
- 11 "(30) Each certificate given under Title 22 in
12 relation to hospitals, diseases, infection, and quarantine
13 ~~1.00~~ 3.00
- 14 "(31) Each satisfaction of a mortgage ~~1.00~~ 3.00
- 15 "(32) Issuing and recording marriage license 10.00
- 16 "(33) Celebrating rites of matrimony ~~7.50~~ 15.00
- 17 "(34) Proceedings to correct record of marriage ~~7.50~~
18 15.00
- 19 "(35) Recording certificates of judgment ~~2.50~~ 3.00
- 20 "(36) Administering oath for affidavit ~~1.00~~ 3.00
- 21 "(37) Issuing writs of ad quod damnum for the
22 erection of dams or public mills ~~10.00~~ 15.00
- 23 ~~"(38) Proceedings appointing legal representative~~
24 ~~25.00~~
- 25 ~~"(39)~~ (38) Establishing facts of birth 15.00

1 "~~(40)~~ (39) Proceedings appointing notary public and
2 recording ~~10.00~~ 15.00

3 "~~(41)~~ (40) Hearing pertaining to mental illness
4 25.00

5 "~~(42)~~ (41) Restoration to ~~sanity hearing~~ capacity
6 ~~10.00~~ 15.00

7 "~~(43)~~ (42) Taking questions and answers and
8 recording the same in proceedings to perpetuate testimony, per
9 page 5.00

10 "~~(44)~~ (43) Trying and sealing weights and measures,
11 for each weight and measure sealed, to be paid by the person
12 for whom the service is performed ~~1.00~~ .50

13 "~~(45)~~ (44) Fees on all sums paid to the probate
14 judge as escheats, ~~10~~ two percent of total amount.

15 "~~(46)~~ (45) Recording or copying plats, for each lot
16 contained therein, ~~\$.50~~ \$1.00 per lot, but in no case more
17 than \$200.00 for one map, nor less than ~~\$10.00~~ \$15.00 for one
18 map.

19 "~~(47)~~ (46) Presiding over the county commission and
20 keeping minutes of the county commission, for each day 10.00

21 "~~(48)~~ (47) For recording minutes and proceedings of
22 the county commission, for each page or fraction thereof 2.00

23 "~~(49)~~ (48) Discharging his or her duties in relation
24 to public roads, on proof to the county commission that he or
25 she had discharged such duties, annually, to be paid out of
26 the county treasury or, in the discretion of the county

1 commission, to be paid out of the county gasoline tax fund,
2 not exceeding 400.00

3 "~~(50)~~ (49) For certifying record on appeal under
4 either Rule 10 (d) or (e) of the Alabama Rules of Appellate
5 Procedure 15.00

6 "~~(51)~~ (50) All other official duties, for the
7 compensation of which no express provision is made by law,
8 such sum as may be allowed by the county commission to be paid
9 out of the county treasury, not exceeding \$500.00 per annum.

10 "~~(52)~~ (51) Commissions on state and county licenses
11 issued in the probate office, five percent on the amount
12 collected and paid over.

13 "(c) For any proceeding in the probate court or for
14 receiving, keeping and paying out money or distributing money
15 where there is no fee now allowed by law, the same fees shall
16 be charged as are now allowed to the register in the circuit
17 court as provided for in subdivision (3) of Section 12-19-71.
18 Provided, however, for any proceeding under the equity power
19 of the probate court the same fees shall be charged as are
20 provided in this section.

21 "(d) This section shall not repeal, amend nor affect
22 any local law or general law of local application prescribing
23 fees for judges of probate judges"

24 Section 10. The increases provided in Section 9
25 above shall not apply to counties in Category 2 or to Cullman
26 County on the effective date of this act.

1 Section 11. The provisions of this act are
2 severable. If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains.

5 Section 12. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 10-FEB-2000, as amended.

Greg Pappas
Clerk

Senate	<u>22-FEB-2000</u>	Amended and Passed
House	<u>24-FEB-2000</u>	Concurred in Senate Amendment

APPROVED _____
TIME _____

GOVERNOR

Alabama Secretary of State