



Baldwin County Commission

Legislation Text

File #: 21-0373, **Version:** 1

Meeting Type: BCC Regular Meeting

Meeting Date: 1/19/2021

Item Status: New

From: Wayne Dyess, County Administrator; Ron Cink, Budget Director

Submitted by: Anu Gary, Administrative Services Manager

ITEM TITLE

Resolution #2021-041 - Removing the Monetary Limitation on Compensation under Alabama Code Section 40-6-3, Supernumerary Tax Collectors, Tax Assessors, License Commissioners, Etc.

STAFF RECOMMENDATION

As authorized under Ala. Code Section 40-6-3, adopt Resolution #2021-041, which will remove the monetary limitation on compensation related to Supernumerary Tax Collectors, Tax Assessors, License Commissioners, etc.

BACKGROUND INFORMATION

Previous Commission action/date: December 3, 2019, BCC Regular Meeting

Background:

December 3, 2019 - The Commission considered and voted on the following action which FAILED for a lack of a second:

As authorized under Ala. Code Section 40-6-3, adopt Resolution #2020-024, which will remove the monetary limitation on compensation related to Supernumerary Tax Collectors, Tax Assessors, License Commissioners, etc.

January 6, 2021 - Mr. Nix submitted a request via email (see attached) for this action to be reconsidered by the Commission.

BACKGROUND ON REQUEST:

Mr. James Phelan Nix, Jr. served as Baldwin County Revenue Commissioner for 24 years from October 1, 1985 to September 30, 2009. Mr. Nix became eligible to receive his supernumerary compensation on November 21, 2019. He is requesting the Baldwin County Commission to lift the monetary cap which is \$49,600.00, to allow him to draw \$67,500.00 annually. The annual amount of \$67,500.00 would be 75% of his \$90,000.00 former compensation as Revenue Commissioner.

According to Ala. Code Section 40-6-3, no person shall receive more than \$49,600.00 per year, unless the County Commission, by majority vote of the membership, elects to increase or remove this monetary limitation on compensation for any person who assumed supernumerary status after September 30, 1993.

If the Commission approves lifting the cap, Mr. Nix would receive 75% of his \$90,000.00 annual salary, which would be \$67,500.00 annually. This is a difference of \$17,900.00 from the current \$49,600.00 annually that he will be eligible to receive starting November 21, 2019.

Ala. Code Section 40-6-3 - SUPERNUMERARY TAX COLLECTORS, TAX ASSESSORS, LICENSE COMMISSIONERS, ETC.

Life tenure; compensation; cost-of-living increase.

(a) Every supernumerary official shall serve for life and shall receive from the county governing body, in equal monthly installments on the first of each month, or in such installments as other county officials or employees are paid, an annual salary as follows:

(1) For 12 years' service the official shall receive 60 percent of the average compensation during the last four years served as an official charged with assessing and collecting ad valorem taxes.

(2) For 14 years' service the official shall receive 65 percent of the average compensation.

(3) For 16 years the official shall receive 70 percent of the average compensation.

(4) For 18 or more years the official shall receive 75 percent of the average compensation; provided, however, no person shall receive more than forty-nine thousand six hundred dollars (\$49,600.00) per year.

The county governing body may, by majority vote of the membership, elect to increase or remove this monetary limitation on compensation for any person who assumed supernumerary status after September 30, 1993.

The tax collector, if there is a supernumerary tax assessor or tax collector in the county, or the license commissioner or person charged with the collection of ad valorem taxes other than the tax collector, if there is a supernumerary license commissioner or other official charged with the assessing or collecting, or both, of ad valorem taxes in the county, shall from the first money collected by the official pay to the county governing body the sum which shall be paid to the supernumerary official as heretofore set forth. The sum shall be deducted on a pro rata millage basis from payments to the state, county, and all subdivisions and agencies thereof, except municipalities, to which the person collecting ad valorem taxes is charged with the distributing of ad valorem taxes collected under the law. Notwithstanding the foregoing, if the official dies without leaving a surviving spouse, or otherwise becomes disqualified as a supernumerary official, any money remaining in the fund shall be refunded to the person by whom it is paid to the county, and the person shall distribute the money

refunded to the state, county, and other subdivisions and agencies on the same pro rata millage basis that it was originally withheld.

If any official covered under this chapter dies prior to attaining the age of 60 years, but being otherwise qualified to be appointed a supernumerary official, except for age, and is survived by a spouse lawfully married to the official at the time of his or her death, then the surviving spouse shall be paid a monthly allowance equal to 50 percent of the salary which would have been paid to the official had he or she survived to the age of 60. The monthly allowance shall be paid in the same manner as provided for payment to a qualified official and shall continue for 15 years or until the marriage of the surviving spouse, whichever first occurs. Upon the death of any official covered under this chapter after he or she has become fully qualified for appointment as a supernumerary official, including age, whether appointed as a supernumerary official or whether still serving in active office, the surviving spouse of the official shall be paid a monthly allowance equal to 50 percent of the supernumerary salary being paid to the official or to which he or she would be entitled if appointed as supernumerary. The monthly allowance shall be paid in the same manner as provided for the official and shall continue for 15 years or until the marriage of the surviving spouse, whichever first occurs.

(b) Beginning with the fiscal year commencing on October 1, 2006, the supernumerary officials of a county provided for in this section shall be entitled to receive the same cost-of-living increases in compensation, that are granted to county retirees by the county commission, if approved by a resolution of a majority of the county commission. The increases shall be in the same amount or percentage and at the same time, as the case may be, as that amount or percentage increase provided to the other retirees of the county and, if not uniform, the increase shall be equal to the average increase granted to all county retirees who receive an increase.

(Acts 1967, No. 755, p. 1609, §3; Acts 1973, No. 935, p. 1438, §1; Acts 1977, No. 309, p. 410, §2; Acts 1983, No. 83-643, p. 999, §2; Acts 1985, 2nd Ex. Sess., No. 85-985, p. 331; Acts 1988, 1st Ex. Sess., No. 88-878, p. 420, §2; Acts 1994, No. 94-592, p. 1095, §2; Act 2000-696, p. 1418, §1; Act 2001-484, p. 821, §1; Act 2006-108 p. 157, §1.)

FINANCIAL IMPACT

Total cost of recommendation: TBD - cost of raising cap is up to \$17,900.00

Budget line item(s) to be used: TBD

If this is not a budgeted expenditure, does the recommendation create a need for funding?
TBD

LEGAL IMPACT

Is legal review necessary for this staff recommendation and related documents?
Yes.

Reviewed/approved by: Brad Hicks, County Attorney, reviewed the item and the resolution previously (11/25/2019) prior to the December 3, 2019, action which failed. 01/06/2021 akg

Additional comments: N/A

ADVERTISING REQUIREMENTS

Is advertising required for this recommendation? N/A

If the proof of publication affidavit is not attached, list the reason: N/A

FOLLOW UP IMPLEMENTATION

For time-sensitive follow up, select deadline date for follow up: N/A

Individual(s) responsible for follow up: Administration send follow up letter to:

Mr. James Phelan Nix, Jr.
342 Majestic Beauty Ave.
Fairhope, Alabama 36532

cc: Ron Cink
Wayne Dyess
Deidra Hanak
Cian Harrison

Action required (list contact persons/addresses if documents are to be mailed or emailed):
N/A

Additional instructions/notes: N/A