

County Election Commission Duties

I. Membership

A. *Accepting the Appointment*

The responsibilities of newly appointed county election commissioners begin immediately after their appointment. They are required to file their oaths of office with the secretary of the state election commission within twenty (20) days after their appointment. Also within twenty (20) days of their appointment, they are required to organize by electing a chairperson and a secretary of different political parties.

Within ten (10) days of selecting their officers, they must compile a list of the names and addresses of the officers and the other members of the commission and send the list to the secretary of the state election commission and to the coordinator of elections.

The county election commission must give prompt notice of any vacancies on the commission to the state election commission. *T.C.A. §§ 2-12-104, 2-12-105 and 2-12-106.*

B. *Disqualification*

1. Qualifying as a Candidate

Any member of the county election commission who qualifies as a candidate for any public office while serving as a member of the commission shall automatically become disqualified to continue in office as a member of the commission, and a vacancy on the commission shall be considered to exist. *T.C.A. § 2-12-102*

2. Governmental Employee

Any member of the county election commission who is or accepts employment with an elected official, state, county, municipal, or federal governmental body or agency must resign from the county election commission.

II. Compensation

A. **Pay Scale** – The following signifies the minimum that must be paid to county election commission members each month for each day spent in the performance in their duties. The county legislative body may pay a greater amount by approving such amount in a county resolution.

1. In counties having a population of 400,000 or more - **\$70.00**

2. In counties having a population of 150,000 or more, but less than 400,000 - **\$65.00**
3. In counties having a population of 50,000 or more, but less than 150,000 - **\$60.00**
4. In counties having a population of 23,300 or more, but less than 50,000 - **\$55.00**
5. In counties having a population of 12,000 or more, but less than 23,300 - **\$50.00**
6. In counties having a population of 5,500 or more, but less than 12,000 - **\$45.00**
7. In counties having a population of 3,770 or more, but less than 5,500 - **\$40.00**
8. In Shelby County, the chair - **\$1,150.00** per month/the members - **\$1,000.00** per month

B. Pay Schedule

1. County election commissioners must be paid monthly for each day spent in the performance of their duties. According to T.C.A. § 2-12-208(b), for the purpose of computing what amount of time entitles a commissioner to the minimum compensation, the commissioner must have worked not less than one (1) hour in any given twenty-four-hour period.
2. Payment must also be made for meetings which last less than one (1) hour if such meetings are required by statute in order to call or conduct an election or to prepare the annual budget or meetings which are necessary if the election commission is involved in litigation.
3. During any given meeting, the county election commission should handle all matters before them and should avoid dividing the agenda unless necessary to accommodate the issues involved. Consequently, multiple meetings should not be held on the same day so that the election commission may overcharge the county, city or state.

III. Meetings

A. Timing

County election commissions are not required to hold regularly scheduled meetings. However, if the commissions choose to hold such meetings, then they may permanently post a conspicuous notice in their office to satisfy the public notice requirements. Regardless of whether regular meetings are held, a commission shall meet at the call of its chairperson or at the call of the oldest member in age, if the commission does not have a chairperson.

B. Subject to Open Records Act

All county election commission meetings must be open to the public. Indeed, the law requires that adequate notice of the time, place and purpose for each meeting called be given to the public. The official minutes of the meetings must be kept in permanent form, and the minutes must include the votes of each member.

Records of the commission are public records and must be available for public inspection in the commission's office. Member of the public may request copies of any of the commission's records and pay the commission the cost of producing the copies.

However, before the election commission may allow members of the public to inspect its records, the election commission must make a reasonable effort to redact a person's social security number from the record. *T.C.A. §§ 2-1-113 and 2-2-127.*

C. Binding Decisions

A majority of the members of the commission constitutes a quorum. Unless otherwise provided in the law, for any action to be taken, a majority of the members of the board or commission present must vote in approval.

IV. Authority to Adopt Policies

A. General Language Required

The county election commission shall promulgate policies that are necessary to aid the personnel of the election commission office in the performance of their duties with regard to the promotion of voter registration and the electoral process. *T.C.A. § 2-12-116*

B. Explanation

The county election commission's policies should be broad and general in nature. *T.C.A. § 2-12-201* designates the administrator of elections as the chief administrative officer of the commission, and specifically states that the administrator shall be responsible for the daily operations of the office and the execution of all elections.

However, the election commission may adopt general policies that guide the administrator in handling his or her duties. These policies may not be so detailed and specific that they undermine the authority of the administrator.

C. Examples – The following are only examples and in no way represent policies that must be adopted.

1. All nominating petitions must be issued in a nondiscriminatory manner, without regard to the requesting person's race, religion, ethnic origin or political affiliation.
2. The election commission staff shall conduct its affairs and carry out its duties in a nonpartisan manner.
3. The election commission staff may not wear or display campaign or political party paraphernalia during the performance of their duties.

V. Employment Matters

A. Administrator of Elections

County election commissioners must employ the administrators of elections. (The exception for Shelby County has been deleted from the statute)

B. Precinct Registrars

For each election, the representatives of each party on the commission must appoint one (1) precinct registrar for each polling place. (The exception for Shelby County has been deleted from the statute)

C. Machine Technicians

The representatives of each political party on the commission shall jointly appoint a voting machine technician who is a member of their political party. The commission shall also appoint as many assistants as necessary to provide the proper care of the machines. *T.C.A. § 2-9-103.*

VI. Role in Voter Registration Matters

A. Initial Determination

By using the principles to determine residence as outlined in T.C.A. § 2-2-122, the administrator of elections must determine whether an applicant is eligible to register. The administrator's decision is not subject to review unless the requirements of the appeal process have been met.

B. Appeal Process

1. If the administrator rejects a registration, the administrator must inform the applicant of the reason for rejection and inform the applicant of his/her right to appeal the decision to the commission within ten (10) days.

If, after notice and a hearing on the registration, the commission determines that the applicant is not entitled to register or not entitled to register where desired, the commission must provide the applicant with a written statement of its reasoning. Furthermore, if the commission believes that the applicant

violated the law in registering, the commission must report the matter to the grand jury and the local district attorney.

2. Notably, the statute provides that the decision of the commission is a final administrative action. Therefore, any further review of the question of registration would require the applicant to file a lawsuit in the appropriate court. T.C.A. §§ 2-2-122 and 2-2-125.

VII. Verification Program

The county election commissions must implement an address verification program to identify voters who have changed addresses without notifying the election commission. The program must be uniform and nondiscriminatory. The program must be conducted at least every two years.

The program can be as elaborate as having non-forwardable verification cards mailed to every voter in the course of two years, or as simple as having non-forwardable verification cards mailed to voters who have not voted or otherwise updated their voter registrations during the previous even-numbered year election cycle. (Typically voters who have recently voted or otherwise updated their voter registration do not need to have their addresses verified.)

Although the mailing of confirmation notices is an on-going process, the verification program must include the description of this step and reflect the process of having the confirmation notices mailed in response to verification cards that have been returned.

The verification program may also include a description of any use of the National Change of Address program.

A written description of the program should be available for public inspection.

VIII. Establishing and Modifying Voting Precinct Boundaries

Whenever public convenience or the law requires it, the county election commissions may establish, consolidate or change precinct boundaries. In doing so, the commission must cause the precinct boundaries to coincide with a census block, tract, municipal or county boundary as designated on U.S. Bureau of the Census maps prepared for the 1990 census. Furthermore, the statute requires that all precinct boundaries that do not already coincide with a census boundary must be altered accordingly. T.C.A. § 2-3-102.

IX. County Election Commission Offices and Polling Places

A. County Election Commission Office

Every building that houses a county election commission office must be accessible to elderly and disabled voters. The law does not contain any exceptions to this requirement.

B. Polling Places

Election commissions must select locations for the polls that are accessible to individuals with disabilities, have rooms with adequate heat, light, space and electrical outlets for holding comfortable and orderly elections.

An exception to the requirement that polling places be accessible to elderly voters and voters with disabilities may be granted if the state election commission and the coordinator of elections find that a precinct cannot reasonably be made accessible to the elderly voter or the voter with a disability. However, if a suitable building that is readily accessible is or becomes available, then the accessible building shall be designated as the polling place.

The statute requires that, when requested, the proper authorities will make available necessary space in buildings or grounds supported by state or local tax dollars to the election commission for holding elections (both **early voting** and Election Day locations) and storing voting machines. Except for reasonable charges for janitorial services, the commission cannot be charged for use of such buildings. **(2013 amendment added early voting locations to this statute)**

If the election commission uses private buildings as polling places, the commissions may pay reasonable rental fees. T.C.A. § 2-3-107.

X. Appointment of Poll Workers

A. Offices to Appoint – T. C. A. § 2-4-102

1. Officer of elections – One (1)
2. Judges – Three (3)
3. Precinct Registrars – Two (2)
 - a) Two (2) of the judges appointed shall concurrently serve as precinct registrars, in accordance with § 2-12-202.

4. Machine Operators

- a) One (1) machine operator may be appointed to operate no more than two (2) voting machines.
- b) In precincts where voting machines are used, any judge not appointed to serve as a precinct registrar shall concurrently serve as a machine operator for that polling place.

5. Inspectors

- a) The county election commission may appoint for Election Day as many inspectors as it may deem necessary.

6. Early Voting Deputies

7. Central Absentee Counting Board Members – T. C. A. § 2-6-302

- a) Officer of elections - One (1)
- b) Judges – Three (3) appointed
- c) If necessary, appoint additional judges

8. Central Provisional Counting Board Members – T. C. A. § 2-7-112

- a) All provisional ballots shall be counted at the county election commission office by a separate central absentee ballot counting board that has been appointed in like manner to the central absentee ballot counting board.
- b) Upon completion of the counting of the absentee ballots, the county election commission may designate the central absentee ballot counting board established under § 2-6-302 as the central provisional ballot counting board.
- c) If the county election commission determines that there are fewer than one hundred (100) absentee and provisional ballots to be counted, the county election commission may act as the central provisional ballot counting board without additional compensation.

B. Political Party Representation

- 1. Not more than two (2) of the judges at a polling place may be of the same political party, if persons from different political parties are willing to serve. T. C. A. § 2-4-104
- 2. As nearly as practicable, no more than one half (1/2) of the number of election officials at a polling place and no more than one half (1/2) of the

whole number of inspectors may be members of the same political party.
T. C. A. § 2-4-105

3. When primary elections are being held, at least one (1) judge shall be appointed from each party having a primary at the polling place for which the judges are being appointed. T. C. A. § 2-4-104
4. If only one (1) political party elects to hold a primary election as authorized under § 2-13-203, then only members of that political party who call the primary shall be appointed to serve at the polls as election officials.
T. C. A. § 2-4-105

C. Nominations Made by Political Parties

Each county primary board must, and each county executive committee may, nominate persons for appointment as election officials.

D. Authority to Reject a Political Party's Nomination

1. Person Appointed Previously

The county election commission may refuse to appoint a nominee if the nominee has been appointed before **and** the members of the commission who are members of the same party as the nominee believe the person to be incompetent or unfit to serve in the election or if the person failed to serve as directed in a previous election. *T.C.A. § 2-4-106.*

2. Government Employees

a) The Election Code prohibits the following persons from serving as election officials

- (1) Any elected official;
- (2) Employees of elected officials;
- (3) County, municipal or federal governmental or governmental agency employees (**P.C. 146 - 2013 amendment allows state employees to serve as an election official**); and
- (4) Candidates in the election

b) Exceptions - Notwithstanding this list, the Code specifically states that the above prohibition does not disqualify the following individuals:

- (1) Notaries public;

- (2) Employees, faculty members or instructors at institutions of higher education;
 - (3) School teachers; or
 - (4) Members of the reserves of the armed forces. (However, if the individuals are full-time employees of the reserves of the National Guard or they are on active duty, then the Code does disqualify them from being election officials.)
 - (5) Employees of county or city school systems who do not work directly under the supervision of an elected official are not disqualified from serving as election officials. *T.C.A. § 2-1-112.*
3. County Election Commission Members, Administrator of Elections and Their Close Relatives
- a) Neither the county election commission members, their spouses, parents, brothers, sisters or children, including in-laws may be hired as clerical assistants, absentee voting deputies, poll officials or as a member of the absentee counting board, except in an emergency.
 - b) The spouses, parents, siblings and children of the administrator of elections may not be hired, except in an emergency.

XI. Early Voting and Absentee By Mail Voting

A. Locking Absentee Ballot Boxes

The county election commission shall lock the absentee ballot boxes in the following manner:

- 1. At the beginning of the absentee voting period, two (2) election commissioners, one (1) from each party, shall each separately place one (1) lock on the ballot boxes;
- 2. Each commissioner shall retain the keys personally.
- 3. At the beginning of the absentee voting period, two (2) election commissioners, one (1) from each party, shall each separately place one (1) seal on the ballot boxes.
- 4. The seal numbers shall be recorded by the administrator and certified, in duplicate, by one (1) election commission member of each party. The original certification shall be mailed to the coordinator of elections, while the election commission maintains the duplicate.
- 5. The seals may only be broken at the time when votes are to be counted.
T.C.A. § 2-6-311.

XII. Provisional Voting

A. Locking Provisional Ballot Boxes

The county election commission shall lock the provisional ballot boxes in the following manner:

1. Before early voting and Election Day, two (2) election commissioners, one (1) from each party, shall each separately place one (1) lock on the ballot boxes;
2. Each commissioner shall retain the keys personally.
3. At the beginning of the absentee voting period, two (2) election commissioners, one (1) from each party, shall each separately place one (1) seal on the ballot boxes.
4. The seal numbers shall be recorded by the administrator and certified, in duplicate, by one (1) election commission member of each party. The original certification shall be mailed to the coordinator of elections, while the election commission maintains the duplicate.
5. The seals may only be broken at the time when votes are to be counted.
T.C.A. § 2-6-311.

XIII. Certification of Election Results

On the first Monday after an election, or upon completion of comparing the tally sheets with the figures on the voting machines, but at no time later than the second Monday after the election, the county election commission must meet at its office to compare the returns on the tally sheets and to certify the results as shown by the returns. At least a majority of the county election commission members must perform these duties and sign the certification.

At this meeting, the election commission may not recount any paper ballots, including absentee ballots.

The failure of the county election commission to certify the election returns without good cause shown may result in the forfeiture of any compensation due to the members for holding such election. *T.C.A. § 2-8-101.*

After completing the comparison of returns, the election commission must make and certify the official tabulation and certification of results both by precinct and county totals. This information must be mailed to the appropriate office in the manner prescribed by the statute. *T.C.A. §§ 2-8-105 and 2-8-106.*