



# County Technical Assistance Service

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## The County Election Commission

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Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

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## The County Election Commission

**Reference Number:** CTAS-847

Appointment and Removal. The basic unit that regulates elections at the county level is the county election commission. The five commissioners for each county are appointed by the state election commission; three must be members of the majority party in the state, appointed by members of the state election commission from that party, while the other two will be of the minority party, similarly appointed by the minority members of the state election commission. T.C.A. § 2-12-103. Majority and minority parties are defined as the political parties whose members hold the largest and second largest number of seats in the combined houses of the General Assembly. T.C.A. § 2-1-104. Before appointing county election commissioners, members of the state election commission are directed to consult with members of the General Assembly from each county regarding whom to appoint as county election commissioners. T.C.A. § 2-12-103.

## Qualifications and Disqualifications

**Reference Number:** CTAS-848

County election commissioners must be registered voters who have been residents of the state for five years and residents of the county for which they are appointed for two years (with an exception for counties with a population between 276,000 and 277,000). Elected officials, employees of elected officials and employees of a state, county, municipal, or federal government body or agency are not eligible to serve on the election commission. However, this statute does not disqualify the following people: a notary public, employees of county or city school systems who do not work directly under the supervision of an elected official, or a member of a reserve unit of the U. S. armed services or National Guard, unless on active duty. T.C.A. § 2-1-112. If a county election commissioner qualifies as a candidate for any public office, that member will be automatically disqualified and a vacancy will be created on the commission. T.C.A. § 2-12-102.

## Oath of Office and Organization

**Reference Number:** CTAS-849

Within 20 days after their appointment, county election commissioners must qualify by filing an oath of office with the secretary of the state election commission. Failure to qualify will vacate the office. T.C.A. § 2-12-104. Also within 20 days the commission is to organize by electing a chairperson and a secretary from among their number, each of different parties. Within 10 days of this selection, the commission must report the names and addresses of the officers and other members to the state election commission. T.C.A. § 2-12-105.

## Office Hours

**Reference Number:** CTAS-850

Each county election commission must have an office in the county courthouse or another public building, and may designate additional locations if they are needed. A schedule of minimum office hours, which depends on the population of the county and the certification status of the administrator, is set out in T.C.A. § 2-2-108. The county election commission may also keep additional office hours as needed to (1) register qualified applicants, (2) replace lost registration cards, (3) transfer or change registrations, and (4) perform its other duties. T.C.A. § 2-2-108.

## Meetings

**Reference Number:** CTAS-851

The county election commission meets on the call of its chairperson (if there is no chair, the oldest member presides). T.C.A. § 2-1-113. All meetings must be open to the public and preceded by adequate notice, as required by Tennessee's sunshine law. T.C.A. § 8-44-101 *et seq.* This notice must give the time,

place, and purpose for the meeting, although the requirement may be met by permanently posting a conspicuous meeting notice in the commission office. The commission must keep official minutes of each meeting, including the vote of each member on all issues, and must allow reasonable times for public examination. A majority of the members constitutes a quorum, and a measure passes on a majority vote of the members present. Any action taken that does not meet these requirements can be voided at the request of anyone who may be adversely affected. T.C.A. § 2-1-113.

## Duties-County Election Commission

**Reference Number:** CTAS-852

## Publication of Election Notices

**Reference Number:** CTAS-853

The county election commission is required to publish in a newspaper of general circulation in the county a notice of all elections, except special elections, at least twenty-one (21) days before the qualifying deadline. A notice of elections on questions must be published sometime between twenty (20) and thirty (30) days before election day, and must include in its entirety the resolution or other instrument that is to be decided. Finally, a notice of every election, stating the day, time, and polling places, must be published sometime between ten (10) and three (3) days before the election. T.C.A. § 2-12-111.

At least five days before the start of early voting and at least five days before election day the election commission must also publish a sample ballot in a newspaper of general circulation; however, a sample ballot does not have to be published if the election commission instead mails a sample ballot to all registered voters at least five days prior to the beginning of the early voting period. T.C.A. § 2-5-211. Also, at least five days before the start of early voting and at least five days before election day, the election commission must post a sample ballot on a website maintained by the county election commission or, if the county election commission does not have or maintain a website, on the website maintained by the secretary of state. T.C.A. § 2-5-211.

## Submission of Semiannual Report

**Reference Number:** CTAS-854

The county election commission is required to provide a semiannual voter registration report to the state coordinator of elections. The content of this report has changed significantly with the implementation of the National Voter Registration Act. See T.C.A. § 2-12-114 or contact the coordinator of elections for information about the requirements of this report.

## Promotion of Voter Participation

**Reference Number:** CTAS-855

The county election commission is charged with the general duty of encouraging wider participation in the electoral process. Generally these duties involve the selection of the administrator of elections and then assistance with the following responsibilities of that office: approving an annual budget for the commission, approving purchases of voting machines and seeing to their maintenance, hiring legal counsel, designating polling places and precinct boundaries, and assisting in obtaining poll workers. Additionally, the commission must ensure the fairness and smooth functioning of elections by certifying voting machines, taking responsibility for absentee ballot boxes, assisting election personnel on election day, certifying election results and election expenses, determining a uniform time for the opening of polls, and maintaining the security of the election commission office and facilities. T.C.A. § 2-12-116.

At least quarterly, during a county election commission meeting, a county election commission member of the majority and the minority party shall inspect random voter registration forms accepted by the county election commission since the previous inspection. T.C.A. § 2-2-120. If a deficiency is found, the deficiency must be recorded and a written report must be prepared including the name of the administrator at the time the voter registration form was filed, the nature of the deficiency, and whether the individual has voted since the deficient form was filed and accepted. The report must be filed with the state coordinator

of elections. If a significant number of deficient voter registration forms are discovered, then the administrator of elections may be subject to discipline by the state election commission or may be terminated by the county election commission. T.C.A. § 2-2-120.

## Election Administrators

**Reference Number:** CTAS-520

Tennessee statutes require election commissions to employ an administrator of elections (formerly known as the registrar-at-large), who is the chief administrative officer of the commission and who is responsible for daily operations of the office. The duties of the administrator include, but are not limited to, the following:

1. Employment of office personnel;
2. Preparation and presentation of the annual budget;
3. Requisition and purchase of supplies;
4. Maintenance of voter registration files, campaign disclosure records, and other required records;
5. Instruction of poll workers;
6. Preparation of notices for publication;
7. Preparation and maintenance of all fiscal records;
8. Dissemination of information regarding all aspects of the electoral process;
9. Promotion of the electoral process;
10. Attendance at educational seminars;
11. Knowledge of current laws pertaining to the electoral process;
12. Assistance in planning and implementing apportionment plans;
13. Preparation of a plan for placing precinct voting locations and presentation of such plan to the election commission for approval;
14. Preparation of a plan for early voting sites and presentation of such plan to the election commission for approval; and
15. Upon request, assist with redistricting.

T.C.A. § 2-12-201.

In fulfilling these duties, the administrator and election commission must keep in mind that after July 1, 2011, the administrator of elections may not appoint or hire, except in the event of and during an emergency, members of the county election commission, or spouses, parents, brothers, sisters or children, including in-laws of commission members or spouses, parents, brothers, sisters or children, including in-laws of the administrator of elections as deputies, clerical assistants, absentee voting deputies, machine technicians, poll officials or as members of the absentee counting board. T.C.A. §§ 2-12-116, 2-12-201. The election laws also provide for the certification of administrators of elections, T.C.A. § 2-11-202, and for their compensation. T.C.A. §§ 2-12-208, 2-12-209.

## Appointment and Education of Election Officials

**Reference Number:** CTAS-856

The appointment of county election officials normally begins with a nomination process. The county primary board for each party shall (and the executive committee of each party may) submit names to the county election commission 30 days prior to the appointment time. If the nominees meet the qualifications to serve, the election commission shall appoint them. T.C.A. §§ 2-4-103 through -106. However, the commission may refuse to appoint any person who, in the opinion of the commission members from his or her political party, is unfit to serve. If there is an inadequate number of nominees, the county election commission may appoint as many additional people as necessary. T.C.A. § 2-4-106.

From these nominees, if possible, the majority and minority party factions of the county election commission each appoint one precinct registrar for each polling place. For most counties, these appointments are made for each election, but they are made for two-year terms in Shelby County (identified by population class). T.C.A. § 2-12-202. The county election commission is also directed to appoint, at a minimum, one officer of elections and three judges for each polling place. Two of the judges appointed shall concurrently serve as the precinct registrars in accordance with T.C.A. § 2-12-202. In precincts where voting machines are used, any judge not serving as a precinct registrar shall concurrently serve as a machine operator. One machine operator can operate up to two voting machines. T.C.A. § 2-4-102. Each of these officers, as well as precinct registrars and assistant precinct registrars, must be registered voters and

shall reside in the county in which they are appointed to serve. T.C.A. § 2-4-103. If any election official fails to appear at the polling place, the officer of elections or, in such officer's absence, a majority of the election officials attending, shall select a person to fill the vacancy who is a registered voter of the county. Persons chosen to fill vacancies shall be, whenever practical, members of the same party as the person they are replacing. T.C.A. § 2-7-105. Notwithstanding any other provision of law to the contrary, a county election commission may appoint a person who has reached the age of 17 years as an election official provided that they meet all the other requirements to serve. T.C.A. § 2-4-103(e).

The election commission may also appoint as many inspectors as they deem necessary, who must be registered voters and inhabitants of the county. Inspectors investigate the conduct of elections on behalf of the election commission and report any irregularities to the commission. T.C.A. § 2-4-102.

Not more than two judges at a polling place may be of the same political party if those from different parties are willing to serve. T.C.A. § 2-4-104. If it is practicable, no more than one-half of the election officials at one polling place, and one-half the total number of county inspectors, may be of the same political party. If only one party elects to hold a primary, then only members of that party may serve as election officials. T.C.A. § 2-4-105. Election officials are to be notified of their appointments on a statutorily prescribed form. T.C.A. § 2-4-107.

The county election commission is also responsible for instructing the election officials in their duties. After the appointment of the election officials pursuant to T.C.A. § 2-4-102, a meeting is to be held for this purpose; attendance may be limited to those who are inexperienced or otherwise in need of such training. The officials are to be paid \$10 each for the time spent in training and qualifying but only if they serve in the election. T.C.A. § 2-4-108. They are to be paid \$50 for service on election day. The amounts of compensation can be increased by the county legislative body. T.C.A. § 2-4-109.

## Compensation and Funding

**Reference Number:** CTAS-857

A minimum compensation for members of the county election commission is specified by statute and varies according to the population of the county. These amounts may be increased in any county by resolution of the county legislative body. In order to trigger the daily rate, a commissioner must work at least one hour in any given 24 hour period, but payment is made for meetings lasting less than one hour if they are required by statute, budget preparation, or litigation. T.C.A. § 2-12-108.

A separate statute, T.C.A. § 2-12-208, provides for the compensation of certified administrators of elections, whose salaries are based on a percentage of the salary of the assessor of property. The salary specified by statute for the certified administrator of elections is a minimum that may be increased by the county legislative body. Any certified administrator of elections in a county where the election commission office is open five full days a week is required to receive as a base salary at least 90 percent of the salary of the assessor of property in the county. If the administrator's salary is less than this level on June 18, 2005, then the salary must be increased in the two subsequent fiscal years by at least 5 percent per year to reach the 90 percent level.

Basically, the funding of each county election commission is the responsibility of that county which, if not provided for, will be compelled by the chancery court. However, each municipality is responsible for expenses the county election commission incurs in holding municipal elections, and for the additional expenses attributable to the municipal election when it is held on the same day as a countywide election. Similarly, elections for the sole purpose of choosing a member of the General Assembly are to be funded by the state, as are presidential preference primaries. The state will also fund county primaries that are held along with the presidential primary. All expenses must be properly reviewed and certified in order to be paid. T.C.A. § 2-12-109.

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