

CHAPTER 5

ELECTION PREPARATION

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5.1 Election Precincts and Districts

The counties of Alabama are divided into election units known as precincts, or more popularly known as “beats.” § 17-1-2(4) and (19). The county commission has authority at its first regular meeting in March in even-numbered years to establish or alter the boundaries of election precincts. § 17-6-3(a). There must be at least one precinct ballot counter for each 2,400 qualified voters. If it is anticipated in any election precinct that more than 2,400 qualified electors will be casting votes, the county commission should immediately provide additional electronic voting machines and authorize the judge of probate to alphabetically separate the list of qualified voters so that no group will cause a single electronic voting machine to record more than 2,400 votes. § 17-6-3(b).

Boundary lines of municipal wards are established by the municipal governing bodies and may be altered or subdivided into voting districts provided that no adjustment is made within three months of any election. Notice of these adjustments is filed by the municipal clerk with the county’s judge of probate and is also published within the municipality. § 11-46-23.

Where voting centers have been established by special legislation, election procedures differ in some respect from those required by the general statutory provisions explained in this handbook. For information on the requirements for voting centers in municipal elections, see Chapter 8.

5.1.1 Polling Places

Whenever the county commission alters the boundaries of election districts to ensure the districts contain no more than the prescribed number of voters, the commission must designate at least one polling place within each district. It may, however, designate more than one polling place in each district. § 11-46-24. The boundaries of the election districts and the locations of the polling places are filed in the office of the judge of probate, and the judge of probate gives notice of any change in district boundaries or polling places by publishing the notice in a county newspaper and by having the sheriff post the notice at the courthouse door and at two other public places in the district. §§ 17-6-3(d) and 17-6-4(b).

A county may change a polling place within three months of an election if an emergency exists that necessitates changing the polling place. AG AO 99-00273.

In municipal elections, polling places for wards and voting districts are designated by the municipal governing body. § 11-46-24. Voters are allowed to cast their ballots only in the district in which they are registered. §§ 17-6-4(c) and 11-46-38(a).

For the purpose of a municipal election, when verifying a provisional ballot based upon the fact that the individual's name does not appear on the official list of eligible voters for the polling place in which the individual seeks to vote, the board of registrars shall verify that the voter is a qualified elector and registered at an address located within the municipal corporate limits or district within which he or she seeks to vote. § 17-10-2(e).

5.2 Ballots and Other Supplies

The preparation of ballots and other supplies necessary to conduct all state, county and federal elections is the responsibility of the judge of probate as chief elections official for the county. § 17-6-47. The mayor or other chief executive officer of each municipality has the responsibility for the performance of these duties in municipal elections. § 11-46-32.

5.2.1 Arrangement of Offices on Primary Ballot

In primary elections, the names of the candidates must be listed on the ballot in alphabetical order by surname and the offices must be arranged in the following order under § 17-6-25:

- (a) President (if preferential primary)
- (b) Governor
- (c) Lt. Governor
- (d) U.S. Senator
- (e) U.S. Representative
- (f) Attorney General
- (g) State Senator
- (h) State Representative
- (i) Supreme Court Justice
- (j) Court of Civil Appeals Judge
- (k) Court of Criminal Appeals Judge
- (l) Secretary of State
- (m) State Treasurer
- (n) State Auditor
- (o) Commissioner of Agriculture and Industries
- (p) Public Service Commissioner
- (q) State Board of Education Member
- (r) Circuit Court Judge
- (s) District Attorney
- (t) District Court Judge
- (u) Circuit Clerk
- (v) Other public officers (to be listed in the order prescribed by the judge of probate)
- (w) Delegate to National Convention
- (x) Other party officers (to be listed in the order prescribed by the judge of probate)

5.2.2 Separate Ballots, etc. for Each Party Holding a Primary

Separate ballots and other election supplies must be furnished for each party participating in the primary. These materials must be of a different color

for each party. All ballots for the same political party must be alike in each district. § 17-13-8. The county commission must furnish separate distinctly marked ballots for each party. §§ 17-6-24, 17-6-26, and 17-6-42.

5.2.3 Special Features of Primary Ballot

The party emblem and the words “Official Primary Election Ballot” must be printed across the top of the ballot. The names of the candidates are then grouped by offices in the manner noted previously and instructions as to the number of candidates to be elected to each office.

If the party so chooses, Alabama law allows that at the bottom of the ballot, after the name of the last candidate, there to be printed the following: “By casting this ballot I do pledge myself to abide by the result of this primary election and to aid and support all the nominees thereof in the ensuing general election.” § 17-13-8. Originally, this oath was mandatory for all primary ballots. However, the Alabama Republican Party obtained a federal court injunction prohibiting the printing of this pledge on their ballot material. *Alabama Republican Party v. State of Alabama*, No. 90-0267-BH (Ala. Feb. 7, 1991). If the pledge is on the ballot, and a voter changes or attempts to mark the affidavit from his ballot, that ballot must be treated as a spoiled ballot and shall not be counted. § 17-13-8.

5.2.4 General Election Ballots

The lists of party candidates in general elections are placed in parallel columns across the face of the ballot, in alphabetical order beginning at the left, with each party column of candidates headed by the party’s designation and emblem. In the event of independent candidates, their names are placed in a column to the right of the last column of party nominees. A blank column is provided to the right for possible write-in candidates. § 17-6-24(a).

Since 1976, the names of the presidential and vice-presidential candidates have appeared on the ballot and a vote for these candidates will be counted as a vote for the presidential electors of the party’s candidate. §§ 17-6-23 and 17-14-32.

5.3 Appointment of Election Officers

5.3.1 Appointing Board

The judge of probate, sheriff, and circuit clerk of the circuit court, or a majority of them, act as the appointing board for the county. § 17-8-1. The appointing board has additional responsibilities for provisional balloting. *See also Appendix S-7, Secretary of State Administrative Procedures Rules for provisional balloting.*

If any member of the appointing board (judge of probate, sheriff, or circuit clerk) is a candidate and has opposition named on the ballot, he or she may not serve on the appointing board. §§ 17-8-3 and 17-17-10. However, if any one of the three officials is a candidate, but unopposed, and, therefore, will not appear on the ballot, that official can serve on the appointing board. § 17-8-3, AG AO 82-0529. No appointing board member is disqualified from service because a family member is running for office. AG AO 90-0256.

Upon disqualification of a judge of probate, sheriff, or circuit clerk, the remaining members of the appointing board will then appoint a qualified elector to take the place of each member of the appointing board who is a candidate for election. § 17-8-4. If the remaining members cannot agree or if all members of the appointing board are unable to serve, the presiding circuit court judge then appoints a qualified elector to act in the place of each appointing board member who is a candidate for election. § 17-8-4.

5.3.2 Poll Workers

The function of the appointing board is the appointment of poll workers. § 17-8-1. The board receives nominations from political parties and makes appointments from members of opposing political parties, if practical. If the lists are insufficient, the board may have to supplement the nomination lists from qualified electors of the county who are members of opposing parties. § 17-8-5. If appointed workers do not report on Election Day, the workers who do report may make appointments from qualified voters at the polling place to fill the vacancies. §§ 17-8-6 and 17-17-11. Qualifications for poll workers are found in Chapter 8.

Any person who is compensated for working at the polls during any returning election, other than an inspector appointed under § 17-8-1(a), may work on a split shift schedule if determined necessary by the judge of

probate. Each portion of a split shift shall consist of not less than six consecutive hours of work and the worker shall be paid one-half of the per day compensation provided for by general or local law in the county. § 17-8-1(c).

5.3.2.1 Nominations for Poll Workers. In general elections, each political party or organization having made nominations for an election may furnish the appointing board with a list of recommended poll workers from qualified electors for each voting place. Lists may be filed by either the state or county party chair or by nominees for office. § 17-8-5.

The appointing board is required to select poll workers from the names appearing on these lists, unless the number of appointments to be made at a particular voting place exceeds the number of names on the lists which have been submitted. If more than two parties file a list of electors, appointment should be made from the lists presented by the two political parties having received the highest number of votes in the state in the most recent regular election. § 17-8-5.

If no lists are furnished by political parties, the appointing board must appoint poll workers from qualified electors of the precinct from members of opposing political parties, if practical. § 17-8-5.

In primaries, candidates for nomination may, at least 45 days before the primary, present to the county executive committee of their party a list of electors from which poll workers may later be selected by the appointing board. § 17-13-48.

Lists submitted by candidates to their party may include electors from one or more of the applicable districts, wards, or precincts. From the lists submitted by the candidates, the county committee should make a list of election officials in each district, ward, or precinct. The county committee should then present the composite list to the appointing board for the board to select poll workers to conduct the primary election. § 17-13-48.

Beginning August 1, 2021, precinct officials who are registered to vote in a given county may serve in any precinct in that county. § 17-8-1.

Members of a candidate's immediate family to the second degree of kinship and any member of a candidate's principal campaign committee are not eligible for appointment. § 17-8-1(a).

5.3.2.2 Time of Appointment of Poll Workers. The appointing board must meet 15 to 20 days before an election to appoint the poll workers for each polling place. § 17-8-1. Because of this requirement, lists of electors compiled by the political parties should be submitted to the appointing board at least 20 days before an election.

If the board has already made its appointment before a party list is received, the board is prohibited from making any subsequent selection from the party list. *Ex parte Register*, 60 So. 2d 41, 47 (Ala. 1952).

5.3.2.3 Number and Types of Poll Workers. The number and type of poll workers required at each precinct shall include one inspector and at least three clerks. §§ 17-8-5 and 11-46-24. The appointing board may appoint additional workers as may be necessary but may not exceed the total number of precinct election officials paid by the county in the November 2004 election without the consent of the county commission. § 17-8-1.

5.3.2.4 Supplementing the Nominations. The appointing board may need to make more appointments at certain polling places than there are available names of electors on the lists submitted to them by the parties. When a party fails to supply a sufficient number of names for a particular polling place prior to a primary election, the appointing board must supply the deficiency from electors of that party. § 17-13-48. If no lists are furnished prior to an election, the appointing board shall appoint inspectors and clerks from opposing political parties if it is practicable. § 17-8-5.

5.3.2.5 Alternate Poll Workers. The judge of probate or other appropriate election officials in a county may provide for the appointment of alternate inspectors and clerks from within the county at-large to serve in the event an appointed inspector or clerk is unable to perform his or her duties. First priority for the appointment is to be given to an alternate poll worker who resides in the precinct where a vacancy exists. § 17-8-1.

5.3.2.6 Replacing Poll Workers. Often, there is a problem with appointed poll officials who either do not show up at their assigned polling place or wait until the last minute to notify officials of their inability to fulfill their obligations as election officers. Vacancies created by excuses or disqualified poll workers should be filled in the original manner. However, if the vacancy occurs on Election Day, the precinct election officials present may complete the number. If the inspector is not present, the other precinct election officials present appoint one of the number as the inspector. Replacement precinct workers must be qualified electors

entitled to vote at that polling place. §§ 17-8-6 and 17-13-48. Beginning August 1, 2021, precinct officials who are registered to vote in a given county may serve in any precinct in that county. § 17-8-1. Precinct election officials should consult with county election officials prior to taking this action, if possible.

5.3.2.7 Student Interns. Section 17-8-14 provides for the appointment by the judge of probate of student interns to work on election day. The judge of probate may appoint up two high school or college students to work as unpaid interns at each polling place. The student interns are to be supervised by the poll managers at all times while performing their duties. Duties of the student interns are to be determined by the officials in charge of the election. However, the duties may not include determining the qualifications of a voter in the event a voter is challenged or the operation and maintenance of any voting equipment. The student interns are to attend all required training for poll workers of the county or municipality and any additional training considered necessary by the officials in charge of the election in the county or municipality. A student intern who works four or more hours in a day during school hours on the day of an election or any day of training shall be entitled to an excused absence from school. § 17-8-14.

5.3.3 Instruction for Poll Workers

Not less than five days before an election, poll workers are required to attend a school of instruction on how to conduct an election. No election official shall serve in any election in which an electronic voting machine is used unless the official has received instruction within 60 days prior to the election, is fully qualified to perform the duties connected with the electronic voting machine and has received a certificate from an authorized instructor. However, an uninstructed person may fill a vacancy among election officials. The judge of probate notifies the persons who have been appointed as to the time and place of the school of instruction for voting-machine officials and publishes the notice at least 48 hours in advance of the school. The city clerk performs these duties in the case of municipal elections. §§ 11-46-30 and 17-8-9.

The Code does not prescribe when all schools of instruction must be held. However, a school of instruction for voting machine election poll officials must be held not less than five days before an election or primary election. § 17-8-9. The school must be held both before primary elections and again before the general election. AG AO 2001-0006. Suggestions as to the

format and who is to conduct the school vary as well. The basic format should include a practical demonstration and explanation of operating an electronic voting machine and a discussion of applicable election laws. An electronic vote counting machine should be set up to facilitate the demonstration.

Under *Harris v. Siegelman*, 700 F. Supp. 1083 (M.D. Ala. 1988), the court ordered the state to also administer a training and certification program for poll workers in general. Although this court order has expired, the Secretary of State's Office provides, at the request of the judges of probate, training aids and technical assistance to counties.

5.3.4 Election Officials Neglect of Duty

Once any election official is appointed and has taken the oath or begun the performance of their duties, willfully neglecting to perform the required duties is a class C misdemeanor. §§ 17-17-3, 17-1-2(21), and 17-1-3.

Any sheriff or deputy commits a Class C felony by willfully or corruptly failing to preserve order at elections. § 17-17-2. Any precinct election official who fails to serve at a polling place, unless the person has been previously excused by the appointing board, is guilty of a violation. § 17-17-11. When an official is excused, the appointing board fills the vacancy. If the appointing board is unable to appoint a person who has attended a previous school of instruction, it is permissible to appoint an uninstructed person from the polling place to fill a vacancy. § 17-8-9(b).

5.3.5 Election Officials in Municipal Elections

Officials for municipal elections include a returning officer for each ward and three inspectors and two clerks for each box when paper ballots are used. When machines are used, each machine must have an inspector, a chief clerk, and first and second assistant clerks. In a Class 6, 7, or 8 municipality, election officials must reside within the municipality and may serve at any polling place within the municipality. § 11-46-27(a). The election officials are appointed by the municipal governing body, not less than 15 days before a municipal election. § 11-46-27(c).

No officer or employee of a municipality may serve as an election official. In addition, no relation of a candidate or spouse to the second degree is eligible to be an election official. § 11-46-27(b).

Like other elections, instruction for voting officials is required. The municipal governing body has the responsibility for providing the school of instruction. The city clerk has a duty to notify the workers of the school. §§ 11-46-30.

In cities having a population of 10,000 or more, one or more sets of officials are appointed to count and return absentee ballots. § 17-11-11. *See also* § 11-46-27(c). In every city or town having less than 10,000 inhabitants, the municipal governing body may adopt an ordinance at least six months prior to the date of the election to provide that, at the time other election officials are appointed, the governing body shall appoint additional election officials who shall meet on the day of the election at the place and hour that the municipal governing body may designate for the purpose of receiving, counting, and returning the absentee ballots cast at the elections. The ordinance may allow three or more such officials to be appointed. These absentee election officials shall be in addition to other election officials required by law and shall be appointed at the same time and in the same manner as other election officials. § 11-46-27(d).

5.3.6 Notification of Election Officials

The judge of probate must notify election officials of their appointment by mail and see that a newspaper of general circulation published in the county carries the lists of names. § 17-8-2. In municipal elections, the mayor or other chief executive officer notifies election officials of their appointment and then either publishes the list in a local newspaper of general circulation or posts the list in three public places. § 11-46-27.

5.4 Notice of Election

Public notice of state and county elections is given by the judge of probate at least 14 days prior to the election and must contain the date of the election and any offices and issues on the ballot. Ordinarily notice is given by publication in a newspaper published in the county. § 17-9-5. The mayor or other chief executive officer gives notice of municipal elections. § 11-46-22.

5.5 Poll Watchers

5.5.1 Poll Watchers' Nominations

A poll watcher represents the interest of one candidate or party at a voting place and looks for any irregularities that might be harmful to the candidate or party. Each party entering candidates in a general election and each candidate at a primary is entitled to appoint a watcher for each voting place. The watcher must be a resident and qualified elector of Alabama. § 17-8-7. In general elections, a watcher may be nominated by each party by a writing submitted to the inspector by the chair of the appropriate local executive committee or nominee for office or beat committee member. A candidate may have a single watcher in the polling place that the candidate appoints and then files that appointment with the inspector. § 17-13-11. In elections where there are no candidates, each political party may nominate watchers. The nominating party must appoint a watcher in writing. The watcher then presents the signed paper to the election inspectors at the polling place where the watcher is to observe. §§ 17-8-7, 17-13-11, and 11-46-35.

5.5.2 Poll Watchers' Rights

According to § 17-8-7(b), poll watchers have the right to:

- (a) Observe the conduct of the election;
- (b) Monitor the preliminaries of opening the polls;
- (c) Remain at the polling place throughout the election until the results have been posted and the voting machines sealed, as provided by law;
- (d) Observe the ballots as they are counted;
- (e) Observe absentee ballots and affidavits when they are called during the count; and,
- (f) See all oaths administered and signed, the record of assisted voters, the list of qualified voters, the poll lists, and any and all records made in connection with the election.

5.5.3 Poll Watchers' Restrictions

A poll watcher may not:

- (a) Disturb voters;
- (b) Attempt to influence voters;

- (c) Campaign; or,
- (d) Display or wear any campaign material or buttons while in the polling place. § 17-8-7(d).

Any person who obstructs, intimidates, threatens, or coerces a voter or any other person to interfere with his or her right to vote or disturbs or prevents or attempts to prevent an elector from voting may be charged with a Class A misdemeanor. §§ 17-17-33 and 17-17-43.