

# CHAPTER 15

## COUNTY COMMISSION

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### **15.1 Office of County Commission**

The county governing body, which is referred to as the “county commission,” is the chief legislative body of the county, with a wide range of responsibilities including elections. Members are elected by the voters of their respective counties. The county commission makes basic decisions about precinct location, voting equipment and voting place administration, including the use of voting centers.

State law requires that the county commission provide funding for a number of election functions. The state reimburses counties for certain election expenses in part or in full, depending on the type of election.

### **15.2 Election Expenses**

#### **15.2.1 Poll Workers**

The county commission pays poll workers according to state law. The state reimburses for all or part of the compensation depending on the election.

Inspectors and clerks are each entitled to \$50 for county elections. § 17-8-12(a). In addition to this compensation, each clerk is entitled to supplemental compensation paid by the state to ensure that the total

compensation paid to each is an amount of at least \$75 per day. Each inspector is entitled to supplemental compensation paid by the state in an amount that ensures that the total compensation of an inspector is at least \$100 per day. § 17-8-12(b). The provisions of this section do not apply to “special” county elections held at any time other than at the time of holding statewide elections.

Upon the completion of a local election school or being certified as a qualified precinct election official by the judge of probate, each clerk and inspector shall be entitled to receive a further \$25 per day in compensation from the state. § 17-8-12(b).

In some counties, the compensation of election officials is prescribed by local law or general law of local application. Any local act which provides for compensation amounts less than that indicated above is superseded by § 17-8-12. However, a local act may provide compensation amounts in excess of this provision, but the county commission is solely responsible for any amount above what is prescribed by § 17-8-12.

### **15.2.2 Reimbursement of Election Expenses**

The state fully reimburses counties for poll worker compensation and election supplies in elections involving only state or federal races or issues. This includes elections in which the only candidates that appear on the ballot are nominated or elected for federal or state office in some portion of the county, and elections including only statewide constitutional amendments. §§ 17-16-4 and 17-16-6.

The State of Alabama will only reimburse a county for one-half of all sums expended by the county in payment of expenses incurred in holding and conducting an election in which there are both constitutional amendments affecting the state as a whole and amendments affecting one or more counties or a subdivision of a county or counties. § 17-16-5. Additionally, the State will only reimburse a county for one-half of all sums expended by the county for elections in which the candidates that appear on the ballot are nominated or elected for both federal or state offices and county offices. § 17-16-3. However, even in these two instances, the state will still provide counties with full reimbursement of the additional poll worker compensation established in § 17-8-12(b). §§ 17-16-3 and 17-16-5. For more information on election reimbursement, see Appendix R.

**15.2.2.1 Election Expenses Defined.** State law defines the election expense items approved as reimbursable as follows:

- (1) Compensation and mileage provided by law for election officials;
- (2) Compensation provided by law for the clerk or other official acting as absentee election manager;
- (3) Costs of ballots, supplies and other materials or equipment necessary for election officials to conduct elections as required by law and as certified by the judge of probate;
- (4) Costs of absentee ballots, supplies, postage, and additional required materials for the absentee election manager;
- (5) Cost of preparing and furnishing lists of qualified voters to election officials; and
- (6) Cost of publishing any notice or other item related to election and required by law, including publication of notice of election and voter list. § 17-16-2.

In addition, § 17-16-2.1 establishes an Election Expense Reimbursement Committee to identify any election expenses not covered in § 17-16-2. The committee met prior to the March 2012 primary to establish a list of approved reimbursable expenses for the election cycle and forwarded the list to the comptroller, who was then required to distribute the list to each county commission chair and each judge of probate no later than 60 days prior to the date of the primary. Following the 2012 primary election, the list remained in effect, but remains subject to amendments by the Election Expense Reimbursement Committee. The committee may amend the list of approved expenses in subsequent election cycles but must do so at least 90 days before the primary for such changes to be effective.

The Election Expense Reimbursement Committee members are:

- (a) President Pro Tempore of the Alabama Senate;
- (b) Speaker of the Alabama House of Representatives;
- (c) Secretary of State or the Secretary's designee;
- (d) Finance Director or Director's designee;
- (e) Senate Constitution, Campaign, Finance, Ethics, and Election Committee Chair;
- (f) House Constitution, Campaign and Elections Committee Chair;
- (g) Senate Finance and Taxation General Fund Committee Chair; and

(h) House Ways and Means General Fund Committee Chair.  
§ 17-16-2.1.

## **15.3 Precincts**

The county commission draws precinct boundaries, designates the places in each precinct for voters to vote, and designates the number of voting machines at each voting place. The county commission alphabetically divides the voters into groups, where necessary and submits the voting information to the judge of probate. Within five days of receiving the information from the commission, the judge of probate publishes the county information regarding precinct numbers and the location of designated voting places. §§ 17-6-2, 17-6-4, and 17-6-5.

### **15.3.1 Precinct Boundaries**

The county commission divides the county into voting precincts. § 17-6-2. A precinct must have visible, definable, and observable physical boundaries that conform to standards set by the U.S. Bureau of the Census for defining census blocks. § 17-6-2. When referenced in the Alabama Administrative Code, “precinct” refers to a single ballot counter or box, such that if three boxes are located in a single polling place, it means that three different precincts are voting in the same location. Ala. Admin. Code r. 307-x-1-.01(13). When referenced in the Code of Alabama, “precinct” refers to the geographical subdivision of the county, and is the smallest geographical area referenced in national, state, or county elections. § 17-1-2(19).

Voters must vote in the polling place of their domicile. § 17-9-10. Every precinct must have at least one polling place. § 17-1-2(27). The precincts must be named and designated by the county commission numerically or alphabetically in a manner that is uniform statewide as determined by the Association of County Commissions of Alabama and the Permanent Legislative Committee on Reappointment. § 17-6-3(e).

### **15.3.2 When Precinct Boundaries Change**

Precincts and their polling places must not be changed within three months prior to an election. Only the county commission can change precinct boundaries and only under specific situations set by law. § 17-6-4(d). The law allows boundary changes for precincts if population changes

mandate a change in precincts or if electoral changes mandate a change in precinct boundaries.

**15.3.2.1 Population changes mandate a change in precincts.** Should a precinct have more than 2,400 qualified voters, the county commission is required to subdivide such precincts into voting districts or divide alphabetically the list of qualified voters in such precincts into groups and assign each qualified voter a designated voting place. An electronic vote counting machine must be provided for every person legally entitled to vote at a polling place at which not more than 2,400 votes on single vote counting machine will be cast. Before an election, the county commission also must determine if more than 2,400 votes are anticipated to be cast on an electronic vote counting machine. If so, the county commission shall adjust the boundary lines of the election precinct or authorize the judge of probate to separate the list so as to provide one vote counting machine for every 2,400 voters. §§ 17-6-3(b) and 17-6-6(c).

**15.3.2.2 Electoral changes mandate a change in precinct boundaries.** State law requires one form of ballot for each polling place. § 17-6-23. This, in effect, mandates precincts that do not cross boundaries of any other electoral districts. The boundaries of county commission districts, legislative districts, congressional districts, and other electoral boundaries must be taken into account to maintain a uniform ballot.

Keeping boundaries within electoral districts makes sense for additional reasons. For example, drawing precincts that cross municipal boundaries would result in different voter lists for municipal and county elections, causing considerable confusion for voters and poll workers. With this in mind, commissioners must examine their precinct boundaries every time the electoral boundaries in their counties change, such as through local redistricting or annexation.

### **15.3.3 How Boundaries Change**

The county commission has the authority to change precinct boundaries. § 17-6-6(a). State law provides that any precinct drawn must be a “contiguous compact area.” § 17-6-2(b). Precincts must follow distinguishable ground features such as highways, roads, streets, and rivers or correspond with the county boundary. § 17-6-2(b).

Changes in precincts must be reflected on the map the county commission maintains outlining the precinct boundaries. § 17-6-2(c). A copy of the current map, with a description of the most recent precinct boundaries, must

be sent to the county board of registrars, the judge of probate, and the legislative reapportionment committee. The map must indicate the date of last revision. § 17-6-2(c). The copy sent to the reapportionment committee must be certified and sent within 30 days of adoption of the changes. § 17-6-6(e).

#### **15.3.4 Selecting Polling Places**

The county commission selects at least one polling place for each precinct. §§ 17-6-3 and 17-6-4. Names of the polling places must be submitted to the judge of probate along with the map outlining precinct boundaries. § 17-6-3.

Polling places must be within enclosed buildings. No electronic voting machines or voting machines of any kind may be operated outside of an enclosed building designated as a polling place. § 17-6-4(a).

Polling places cannot be changed within three months of an election except for emergencies that necessitate changing the polling place. § 17-6-4(d). The courthouse serves as the polling place for the precinct that it is located in unless the county commission determines otherwise. § 17-6-4(e). The registrars shall issue to each person registered a certificate of registration. When voting precinct boundaries and voting locations are changed, new certificates of registration shall be issued before the date of the election on which the changes are to take effect. § 17-3-51.

Polling places designated by the county commission must be the same for all elections involving federal, state, district, and county offices, whether primary, general, or special elections. § 17-6-4(d). County commissions must pick locations that meet accessibility standards under the federal Voting Accessibility for the Elderly and Handicapped Act of 1984. 52 U.S.C. §§ 20101–20107.

#### **15.3.5 Voting Districts**

Along with adding electronic voting machines, the county commission can also divide a precinct into voting districts to solve overcrowding. § 17-6-3(b). When an election precinct has been divided into voting districts, a description of the boundaries of the district must be filed with the judge of probate and with the board of registrars. A copy must also be posted at the courthouse. § 17-6-3(d). Where districts are established, no voter can vote at any place other than the voting district in which the voter is registered. § 17-6-4(c). A polling place for each district must be

designated by the county commission.

#### **15.3.6 Voting Centers**

In an effort to reduce costs for elections, some counties have moved to voting centers. Voting centers combine voters from two or more precincts and allow them to vote in a centralized location. Voting centers can only be established by local law. § 17-1-2(26). A county commission interested in voting centers must consult with local lawmakers and their county attorney for more information and the proper procedure for implementation.

### **15.4 Assigning Ballot Boxes and Voting Machines**

The county commission is responsible for assigning electronic voting machines to the precincts. § 17-6-4(a). An electronic voting machine must be provided for each list of 2,400 voters. § 17-6-3(a). Election precincts in which there are more than 2,400 qualified voters shall be divided into voting districts. This is done by either dividing the precinct into voting districts or subdividing the list of qualified electors for that precinct alphabetically and assigning qualified voters a designated voting place so that every qualified voter will be provided an electronic voting machine at a polling place. However, if the electronic voting machines' manufacturer recommends a maximum number of ballots less than 2,400, then the lower recommendation should be used in calculating how many machines are needed. § 17-6-3(c).

The commission, at its first regular meeting in March of each even-numbered year, meets to examine the list of registered voters to determine if the number of voters exceeds the legal limits in any of the precincts and requires altering the precinct lines. § 17-6-3(b). Also, the commission must examine post-election information to determine if more than the legal maximum number of voters used any single electronic voting machine. § 17-6-6(c).

The county governing body has authority to change precinct boundaries or alphabetically divide the list of registered voters for that precinct to fit within the guidelines. §§ 17-6-3 and 17-6-6. The latter option might require the governing body to provide additional electronic voting machines as needed in each precinct and authorize the judge of probate to alphabetically separate the list of qualified voters for that precinct so that

the number of voters assigned to each electronic voting machine falls within the guidelines. § 17-6-3(b).

## **15.5 Voting Equipment**

The county commission purchases or leases the voting equipment a county will use. The voting system must meet requirements set by statute and must meet the standards issued by the Federal Election Commission. Voting systems are governed in part by the federal Help America Vote Act of 2002 (PL 107-252) and must be accessible for those with disabilities, including non-visual accessibility for the blind and visually impaired. § 17-2-4(c).

Only systems which have been certified by the Alabama Electronic Voting Committee can be used in elections in Alabama. §§ 17-7-21 through 23.

### **15.5.1 Voting Equipment for Disability and Alternative Language**

A voting system must be in place at each polling place through the use of at least one direct recording electronic voting system for individuals with disabilities. The voting system must be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired. The system must also provide alternative language accessibility where the number of non-English speaking voters in a county reaches the requirements of Section 203 of the Voting Rights Act of 1965 (52 U.S.C. § 10503). § 17-2-4.

Purchases of voting equipment made by a county in order to comply with the voting system guidelines established by the Secretary of State and the committee established in § 17-2-2 may be eligible for reimbursement from the Help America Vote Fund created in § 17-2-1 by the Secretary of State. § 17-2-4(h).

### **15.5.2 Paper Ballots**

Paper ballots are used in every municipal, county, state, and statewide election in Alabama.

### **15.5.3 Lever Voting Machines**

Lever voting machines are no longer used in Alabama.

#### **15.5.4 Electronic Vote Counting Systems**

An electronic vote counting system is a system in which votes are recorded on a paper ballot by the voter marking or completing a ballot. Votes are counted at one or more counting locations by way of automatic tabulating equipment. §§ 17-7-20(1) and 17-1-2.

The county commission may adopt the use of an electronic vote counting system by the adoption of an appropriate resolution. § 17-7-21. The electronic vote counting systems must meet the standard required under HAVA. § 17-2-4. Procedures for electronic vote counting systems are included in the appendix.

The county commission can only adopt electronic vote counting systems that have been certified by the Alabama Electronic Voting Committee. Only systems that meet the state standards set in § 17-7-21(b) may be adopted. The Alabama Electronic Voting Committee conducts examinations and tests on electronic vote counting systems. Copies of the certification are sent by the Secretary of State to all of the county commissions. § 17-7-23(4).

**15.5.4.1 Electronic Vote Counting Systems Requirements.** Voting systems must meet the following standards under the Help America Vote Act requirements.

(1) The voting system shall:

- a. Permit the voter to verify, in a private and independent manner, the votes selected by the voter on the ballot before the ballot is cast and counted.
- b. Provide the voter with the opportunity, in a private and independent manner, to change the ballot or correct any error before the ballot is cast and counted, including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.
- c. If the voter selects votes for more than one candidate for a single office:
  - i. Notify the voter that the voter has selected more than one candidate for a single office on the ballot.
  - ii. Notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office.

- iii. Provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(2) A voting system may meet the requirements of paragraph c. of subdivision (1) by:

- a. Establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office.
- b. Providing the voter with instructions on how to correct the ballot before it is cast and counted, including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.

(3) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot. § 17-2-4(a)

#### **15.5.4.2 Electronic Vote Counting Systems Recordkeeping**

- (1) The voting system shall produce a record with an audit capacity for such system.
- (2) The voting system shall produce a permanent paper record with a manual audit capacity for such system.
- (3) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.
- (4) The permanent paper record produced by the voting system paper record produced under paragraph a. shall be available as an official record for any recount conducted with respect to any election in which the system is used. § 17-2-4(b)

#### **15.5.4.3 Electronic Vote Counting Systems Access.** The voting system shall:

- (1) Be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.
- (2) Satisfy the requirement of accessibility through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(3) Provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965 (52 USC § 10503). § 17-2-4(c) and (d).

**15.5.4.4 Electronic Vote Counting Systems Error Rates.** The error rate of the voting system in counting ballots, determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter, shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Elections Commission which were in effect on June 19, 2003. § 17-2-4(e)

**15.5.4.5 Electronic Vote Counting Systems Additional Requirements.** An electronic vote counting system must also meet the following requirements:

- (a) It must permit voting in secrecy.
- (b) It must permit each voter to vote for all candidates, offices and questions for which the elector is entitled to vote.
- (c) It must permit a voter at an election other than a primary to vote a straight party ticket in one operation.
- (d) It must reject all votes for any office or question when the number of votes exceeds the number of votes to which the elector is entitled.
- (e) It must correctly count votes.
- (f) When used in primary elections, the automatic tabulating equipment will count only votes for candidates of one party, reject all votes for an office when the number of votes exceeds the number which the voter is entitled to cast and reject all votes of a voter cast for candidates of more than one party.
- (g) It must allow voters to vote by one operation, for all of the presidential electors of a party or independent candidate for president or vice president.
- (h) It must provide a method for write-in voting.
- (i) It must be capable of giving precinct level totals for the specific number of ballots, total votes by candidate for each office and total votes for or against any ballot question.
- (j) In primary elections, it must be capable of tallying votes from ballots of different political parties from the same precinct.
- (k) It must be capable of automatically producing precinct vote totals in printed, marked or punched form, or in a combination thereof.
- (l) It must be capable of accurately and correctly tabulating each vote that is to be certified. § 17-7-21

### **15.5.5 Electronic Voting Machine Specialists**

The county commission may employ electronic voting specialists to serve as troubleshooters during elections. Such specialists are trained in the operation of the electronic voting equipment and in voting procedures. A specialist may be sent to assist any precinct when accompanied by the sheriff or the sheriff's deputy. However, they may not assume the title or responsibility of the precinct poll workers. § 17-16-1(b).

## **15.6 Voter Registration Functions**

The county commission has several funding responsibilities in connection with the voter registration function.

### **15.6.1 Support for the Board of Registrars**

The county commission is authorized to expend county funds to provide supplies, equipment, telephone service, office space and clerical help to their boards of registrars. All clerical personnel are selected by the board of registrars, and the compensation is set by the county commission. § 17-3-10.

In counties between 100,000 and 350,000 in population according to the 2000 or any subsequent federal census, the judge of probate may hire a clerk to help the board of registrars. While the judge of probate can set the clerk's compensation up to \$250 a month, the clerk is paid from the county treasury. § 17-3-60.

The chair of the board of registrars is authorized to purchase all necessary office equipment and hire necessary part time or full time clerical help to perform its duties. § 17-3-60. Each registrar is to receive a salary of \$80 per day for each day of attendance related to business of the board. Registrars are entitled their pay if a meeting day falls on a legal holiday and the courthouse is closed for that holiday. § 17-3-5(a). The registrars' salaries are paid by the state and disbursed to the county commissions. The county commissions then disburse the funds to each registrar on order of a quorum of the board of registrars of the county. The state comptroller must issue to each county commission, on a monthly basis, an amount sufficient to fund these payments plus the employer share of the Social Security or Federal Insurance Corporation Act tax. The county commission is required to provide the state comptroller an invoice itemized to reflect payments

made. § 17-3-5.

Additionally, each registrar receives a mileage allowance for official travel related to the board in an amount equal to the mileage allowance of state employees or employees of the county - whichever is greater. Travel and other expenses are paid by the county commissions to the boards of registrars, and the state reimburses the county commissions based on written request submitted by the county commissions to the state comptroller. § 17-3-5(a).

The provisions of § 17-3-5 regarding travel mileage do not apply in any county having a population of 600,000 or more inhabitants according to the 1970 or any succeeding federal decennial census, nor do they supersede any currently effective local law or general law of local application regarding travel mileage for registrars in the county.

§ 17-3-5(b).

### **15.6.2 Support for the Judge of Probate**

The county commission pays the judge of probate an amount not to exceed five cents a name for the preparation of the lists of qualified electors used in the polling places. § 17-3-60. The judge of probate prepares these lists from the state voter registration list. Except where compensation has been removed by local act, judges of probate are entitled to five cents per name irrespective of whether they are on the fee system or salaried. Opinion of the Justices, 407 So.2d 122 (Ala. 1981). However, the judge of probate must provide certification that the judge is the proper person to receive the compensation. If instead the judge's assistants prepared the list, then certification from the judge and the assistants will allow them to be compensated for the work. AG AO 93-00057.

However, counties are also authorized to use electronic poll books instead of printed lists of qualified electors. A county may use electronic poll books only with the consent of both the county commission and the judge of probate. A participating county must use an electronic poll book that has been certified by the Secretary of State for use in Alabama. § 17-4-2.1

## **15.7 Voting Hours**

Voting hours are set by state law. Polls must open at 7 a.m. and close at 7 p.m. § 17-9-6. Most polling places in areas operating on the eastern time zone must open and close pursuant to eastern time. However, in Chambers and Lee counties, the county commissions may, by resolution, provide for a polling place to open according to central time.