

Minutes
State Election Commission Meeting
December 3, 2019

The State Election Commission meeting was called to order by Chairman Kent Younce at 12:04 p.m., Central Standard Time, December 3, 2019. The following members and staff were present: Commissioners Barrett, Blackburn, Duckett, McDonald and Wallace; Commissioner Wheeler was connected by phone to listen to the meeting; Coordinator of Elections Mark Goins, Assistant Coordinator of Elections and Kathy Summers, Elections Specialist.

Commissioner McDonald made a motion to adopt the minutes from October 7, 2019, Commissioner Wallace seconded the motion and the minutes were unanimously approved. (Aye votes: Barrett, Blackburn, Duckett, McDonald, Wallace, and Younce; No votes: None; Abstention: None.)

Commissioner Blackburn made a motion to adopt the minutes from November 8, 2019, telephonic meeting, Commissioner McDonald seconded the motion and the minutes were unanimously approved. (Aye votes: Barrett, Blackburn, Duckett, McDonald, Wallace, and Younce; No votes: None; Abstention: None.)

Commissioner Barrett made a motion pursuant to T.C.A. § § 2-12-101 and 2-12-106, seconded by Commissioner McDonald and unanimously approved any nomination(s) for county election commission appointments as submitted, and to leave the nomination process open until 4:30 p.m. Central Standard Time Tuesday, December 3, 2019. (Aye votes: Barrett, Blackburn, Duckett, McDonald, Wallace, and Younce; No votes: None; Abstention: None.) **(See attached county election commission appointments made.)**

Secretary of State Tre Hargett was recognized. Pursuant to TCA § 2-5-205(a)(1) and §2-13-2301(a), Secretary Hargett announced Tennessee's nationally recognized candidates for the March 3, 2020, Presidential Preference Primary. **(See attached list of nationally recognized candidates for Presidential.)**

Old Business

- **TACEO Review**

Chairman Younce recognized Mark Stephens, TACEO – President.

Mark Stephens, President of TACEO, gave a brief update of TACEO business. TACEO's Executive Committee met on October 30, 2019 and approved committee appointments. Mr. Stephens discussed TACEO's Fiscal Policies and Procedures which was approved by the Finance Committee. **(See attached handout for TACEO's Fiscal Policies and Procedures.)**

TACEO Treasurer, Jeanette Cronise, was recognized. Ms. Cronise stated the association has about \$233,000.00 on hand and this amount does not include the monies held by each grand division of TACEO.

Coordinator Goins asked Ms. Cronise if all her recommendations were in TACEO's Fiscal Policies and Procedures and if anything was missing which she suggested. Ms. Cronise stated GAAP procedures were missing and she had recommended they be in the policies and procedures.

Coordinator Goins and State Election Commissioners commended the association on the collaboration for these policies.

Ms. Cronise advised commission members both she and Mark Stephens were signers on checks and the Secretary has the ability review funds online. The Secretary cannot write checks.

Commissioner Barrett asked about the 990's and if they have been resubmitted. Mr. Stephens stated he has spoken with the CPA and those will be submitted on December 15, 2019.

Commissioner Barrett asked about the status of the 1099 for cash payments. Mr. Stephens stated he would need to defer to the accountant to determine the status.

Commissioner Barrett asked about updated by laws and financial statements. Mr. Stephens stated updated by laws and financials statements will be reviewed at the annual seminar. Commissioner Barrett requested the information be provided to TACEO members as soon as they are prepared and not to wait until the annual seminar.

Commissioner Barrett asked about GAAP. Mr. Stephens stated he spoke with five (5) CPA's and they stated GAAP was not needed for TACEO. The association does not have any fixed assets, payroll or depreciation of assets.

Commissioner Barrett asked Mr. Stephens to have the CPA's to put these recommendations in writing.

Commissioner Barrett asked about the status of contacting the Center for Nonprofit Management and Mr. Stephens stated he had not reached out to the center.

Coordinator Goins asked about TACEO giving gifts to association members. Mr. Stephens stated that is not currently in the policy. Commissioner McDonald asked that gifts to association members be written into the policy.

Commissioner Barrett stated having these policies and procedures in place will be standard practice and going forward they will be in place for new officers.

Jeannette Cronise spoke about Mr. Stephens report today. Ms. Cronise was not made aware of the 1099's or the 990s. Ms. Cronise has emailed Mr. Stephens and asked for an update and she has not received a response from Mr. Stephens. Ms. Cronise

stated she, Mr. Stephens and Treasurer Knopf meet with a CPA in Savannah and it was agreed, that with the amended 990's there would be a spread sheet sent out to anyone who had responsibilities for TACEO funds. There would be an attestation sheet sent that would be required to be returned stating to the best of their ability the information was true and accurate for amending the 990's. Each person was to send a copy of their last bank statement showing funds on hand. To Mrs. Cronise's knowledge this spreadsheet and attestation have not been done nor has she been made aware of the funds each grand division has on hand. Mrs. Cronise stated the CPA that the association was originally going to use was in Savannah, and in his letter of engagement he stated he would adhere to GAAP. It is Mrs. Cronise's understanding Mr. Stephens has since procured a CPA out of Knoxville and she has not seen that letter of engagement. Having a CPA in Knoxville and not in Savannah will make things a little difficult for Mrs. Cronise to do her job as Treasurer and she feels she is being left out of the loop.

Mark Stephens does not agree with the comments from Mrs. Cronise. Mr. Stephens had some serious reservations about the CPA selected in Savannah. Mr. Stephens does not wish to discuss Ms. Cronise's concerns publically.

Commissioner Duckett asked Mr. Stephens if he meet with Ms. Cronise to discuss the reason for not using the CPA. Mr. Stephens stated he sent her an email and a letter for the reason he went with the CPA in Knoxville. Commissioner Duckett asked Mrs. Cronise if she received any emails regarding the CPA. Mrs. Cronise stated she did not receive any emails. Commissioner Duckett requested Mr. Stephens to provide the commission with a copy of the emails sent because he does not know what to believe.

Chairman Younce stated to Mr. Stephens he was elected as President and not Treasurer and each officer should have defined duties.

Dan Miller, Administrator of Elections for Henderson County Election Commission and TACEO Executive Committee member spoke before the commission. Mr. Miller stated TACEO's current by laws states the President is the Chairman of the Budget and Finance Committee and not the Treasurer.

Commissioner Duckett advised Mr. Miller he has concerns when officers, of an organization stand up before the commission and state two diametrically opposite things, it causes him to question the validity of the organizations leadership.

Coordinator Goins addressed the commission and audience. Coordinator Goins spoke about TACEO and commended Jeanette Cronise for doing the right thing. Mr. Goins commended Mark Stephens for the work done on TACEO's Fiscal Policies and Procedures. Coordinator Goins encouraged TACEO officials to come together and unite and to work together for the good of the association.

Commissioner Blackburn asked about the letter in their meeting packet regarding Kim Buckley, AOE for Madison County. Commissioner Wallace requested this

information be placed in the meeting packet to show Mrs. Buckley provided a letter stating she shredded several years of TACEO financial records and she acknowledge there was another bank account held by TACEO. Commissioner Wallace felt State Election Commission members needed to be made aware of the letter.

- **Code of Conduct for County Election Commissioners and Administrators of Elections**

As the Ad Hoc Committee set up by Chairman Younce, Commissioner Barrett and Commissioner McDonald went over the Code of Conduct. Commissioner Barrett and Commissioner McDonald provided supporting statute references for each item listed in the policy. Commissioner Barrett stated this policy applies to both county election commission members and the Administrator of Elections and it is by no means exhaustive.

Commissioner Wallace made a motion to approve the Code of Conduct, Commissioner McDonald seconded the motion; all members present unanimously approved the motion. (Aye votes: Barrett, Blackburn, Duckett, McDonald, Wallace and Younce; No votes: None; Abstention: None.)

- **Hart InterCivic Request for approval of Verity 2.3 Voting System and Touch Writer Duo – Alli Fick, Certification Project Manager**

Alli Fick spoke about the Verity 2.3 voting system and Touch Writer Duo viewed in Owensboro, KY on November 5, 2019. (See attached handout provided by Hart InterCivic.)

Commissioner McDonald made a motion to approve the Verity 2.3 voting system and Touch Write Duo, Commissioner Blackburn seconded the motion; all members present unanimously approved the motion. (Aye votes: Barrett, Blackburn, Duckett, McDonald, Wallace and Younce; No votes: None; Abstention: None.)

- **Dominion Request for approval of de Minimis changes to D-Suite 5.5 – Ian Piper, Director Certification**

Ian Piper, Director of Certification for Dominion made a presentation about the de Minimis changes to the D-Suite 5.5 voting system and requested approval of these changes. (See attached presentation provided by Dominion Voting.)

Commissioner Blackburn made a motion to approve the de Minimis changes to Dominions D-Suite 5.5 voting system, Commissioner Wallace seconded the motion; all members present unanimously approved the motion. (Aye votes: Barrett, Blackburn, Duckett, McDonald, Wallace and Younce; No votes: None; Abstention: None.)

New Business

- **John Elkins Perry County**

Mr. Elkins, former county election commissioner for Perry County appeared before the commission to discuss concerns he had regarding absentee voting and provisional voters during the August 2016 election. Mr. Elkins provided his concerns to the Division of Elections. This information was reviewed by the Division of Elections and sent to Kim Helper, District Attorney General for the 21st Judicial District. General Helper assigned an investigator to the case and the investigator turned the investigation over to the TBI. Mr. Elkins stated General Helper said TBI was not able to find anything.

Commissioner Barrett thanked Mr. Elkins for appearing before the commission and discussing his concerns. Commissioner Barrett explained all of the proper procedures were followed for reporting and investigating Mr. Elkins concerns and that the commissions' hands are tied.

Coordinator Goins discussed that the Perry County Election Commission Deputy's son-in law was running for Sherriff and this deputy usually handled all absentee ballots. The county was advised to not let the deputy handle any tasks related to the August election. The Administrator of Elections was processing absentee requests, she would verify they were a voter, but she did not verify the signatures. Processing absentee requests, in Perry County, was not a task typically done by the administrator. Coordinator Goins stated he and Beth Henry-Robertson reviewed all of the applications for ballots and found about ten (10) requests where the signatures did not match. The complaint was turned over to General Helper who ultimately stated there was not a case to prosecute.

- **Sexual Harassment Training for Administrators and County Election Commission Members**

Chairman Younce recognized Commissioner Barrett to discuss sexual harassment training for Administrators and Commission members. Commissioner Barrett would like for a course on sexual harassment to be added to the annual seminar training sessions.

Commissioner Blackburn discussed counties might already train their employees on sexual harassment, but also agrees this should be discussed at the annual seminar.

Coordinator Goins asked the commission if they would be okay with providing training every other year.

Chairman Younce stated the commission previously removed a county election commissioner for sexual harassment and he asked Coordinator Goins to survey the counties to see if training is currently conducted, and if this training would be available for the county election commissioners.

Chairman Younce recognized Commissioner Wallace. Commissioner Wallace made a motion that the letter from Kim Buckley, Administrator of Elections be a part of the minutes, Commissioner Barrett seconded the motion; all members present unanimously approved the motion. (Aye votes: Barrett, Blackburn, Duckett,

McDonald, Wallace and Younce; No votes: None; Abstention: None. (See attached letter from Kim Buckley, Administrator of Elections for Madison County.)

Coordinator Update

Presidential Candidates - Coordinator Goins advised commission members Senator Harris has dropped out of the Presidential race, but will be required to formally withdraw from Tennessee's ballot.

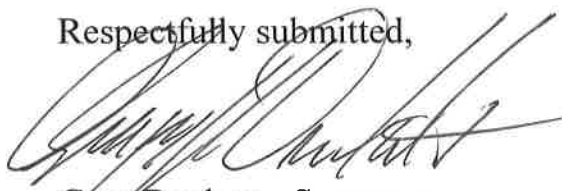
Humphreys County - Coordinator Goins gave an update on a conversation he had with the sales representative for Dominion Voting, specifically regarding the voting machine bid in Humphreys County. Coordinator Goins understood Dominion gave a presentation and held a meeting with the commission prior to the commissions bid. The sales rep felt the meeting was very good, but they were never notified of the bid going out. Dominion's rep contacted the administrator and she advised the bid deadline had passed, but in fact it had not passed. Dominion had planned on bidding even if their machines did not meet the specs. Since Dominion was not notified of the bid, and the time to prepare a bid would have been too close to the cutoff they decided not the bid the machines in Humphreys County.

Chairman Younce stated one bid is not acceptable and counties need to make sure their specs are broad enough for any vendor to bid.

The next scheduled meeting is set for January 13, 2020 and will be held in the William R. Snodgrass – Tennessee Tower, Nashville Room - 3rd floor at 12:00 Noon, Central Standard Time.

The meeting was adjourned at 2:01 p.m. Central Standard Time.

Respectfully submitted,



Greg Duckett - Secretary
State Election Commission

State of Tennessee



State Election Commission
312 Rosa L. Parks Avenue, 7th Floor
Nashville, Tennessee 37243-1102

Vacant Status

December 3, 2019

Cannon

R Kent Younce / D Mike McDonald

R

Montgomery

R Donna Barrett / D Mike McDonald

D

Total Vacancies: 2

State of Tennessee



State Election Commission
312 Rosa L. Parks Avenue, 7th Floor
Nashville, Tennessee 37243-1102

Holdover Status

December 3, 2019

Appointment

Reappointment

#Type!

Total Holdovers: 0

State of Tennessee



State Election Commission
312 Rosa L. Parks Avenue, 7th Floor
Nashville, Tennessee 37243-1102

New Appointment Status

December 3, 2019

		Appointment
Montgomery	R Donna Barrett / D Mike McDonald	
	D Thomas Howard Winn	12/3/2019
Total New Commissioners: 1		

State of Tennessee




The Secretary of State
State Capitol
Nashville, Tennessee 37243-0305

Tre Hargett
Secretary of State

615-741-2819
Tre.Hargett@tn.gov

MEMORANDUM

TO: Chairman Kent Younce, Tennessee State Election Commission
Secretary Tom Wheeler, Tennessee State Election Commission
Commissioner Donna Barrett, Tennessee State Election Commission
Commissioner Judy Blackburn, Tennessee State Election Commission
Commissioner Greg Duckett, Tennessee State Election Commission
Commissioner Mike McDonald, Tennessee State Election Commission
Commissioner Jimmy Wallace, Tennessee State Election Commission

FROM: Tre Hargett, Secretary of State 

COPY: Chairman Scott Golden, Tennessee Republican Party
Chairman Mary Mancini, Tennessee Democratic Party

DATE: December 3, 2019

SUBJECT: List of Nationally Recognized Candidates for Presidential Preference Primary

Pursuant to Tennessee Code Annotated §2-5-205(a)(1) and §2-13-304(a), the following nationally recognized candidates will be placed on the March 3, 2020 Presidential Preference Primary ballot.

Republican Primary Ballot

Donald J. Trump
Joe Walsh
Bill Weld

Democratic Primary Ballot

Michael Bennet	Kamala Harris
Joseph R. Biden	Amy Klobuchar
Michael R. Bloomberg	Deval Patrick
Cory Booker	Bernie Sanders
Pete Buttigieg	Tom Steyer
Julián Castro	Elizabeth Warren
John K. Delaney	Marianne Williamson
Tulsi Gabbard	Andrew Yang



TENNESSEE ASSOCIATION OF COUNTY ELECTION OFFICIALS

FISCAL POLICIES & PROCEDURES

DECEMBER 2, 2019

TACEO Fiscal Policies & Procedures

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TACEO Fiscal Policies & Procedures

Accounting Procedures

Tennessee Association of County Election Officials (TACEO) is responsible to implement a regular process to safeguard the organization's assets.

Basis of Accounting:

TACEO will operate on a Cash Accounting system. TACEO will recognize revenue when it is received and expenses when they are paid. A Chart of Accounts shall be used to track expenses by activity. Accounting records shall be kept up to date, and quarterly financial statements prepared on a timely basis.

Procedures:

Bank Account:

- All monies will reside in a checking account in one bank established by and for TACEO.
- The account shall be maintained and managed by the Treasurer and the President or Secretary of TACEO.
- The funds in the bank accounts should not be used to receive or disburse non-TACEO funds.
- No bank account should contain more than the FDIC insured amount.
- The TACEO bank account number is never to be provided over the internet for purchases.
- All checks are to be pre-numbered and have the TACEO name on them.
- All unused checks are to be kept in a locked drawer and accounted for monthly.
- Electronic banking allows wire transfers, electronic transfers, and stop payments on checks. However, TACEO will not perform these functions

Journal Entries:

- The accounting firm will post journal entries on a quarterly basis.
- The Treasurer and President, or his/her designate will review quarterly.

Bank Reconciliations / Statements:

- All bank statements will be opened and reviewed in a timely manner.
- All bank statements and cancelled checks will be reviewed and initialed by the Treasurer.
- Once reviewed, bank statements are submitted quarterly to the accountant for reconciliation.
- The President or designated Officer will review and approve reconciliation reports by signing and dating the report.
- All discrepancies will be reported to the Budget & Finance Committee.

- The accounting firm or his bookkeeper may be called to assist in resolving any discrepancy.
- Any discrepancy that cannot be resolved will be reported to the Executive Committee within 10 days.

Cash & Checks Receipts & Disbursements:

- Checks written to "cash" shall be prohibited.
- All disbursements shall be made by pre-numbered checks. Checks shall be in the possession of the Treasurer, in a secured and locked place.
- Cash is prohibited from being kept in anyone's possession outside of a conference setting.
- All voided checks are scanned, noted in register, and mutilated at the end of the fiscal year.
- All checks are endorsed "for deposit only" immediately upon receipt.
- All checks are photocopied before being deposited.
- Cash and checks are kept in a locked box until deposited.
- A daily list of all cash and checks shall be prepared.
- Cash withdrawals should be no more than three (3) business days prior to the event for which it is needed with the purpose of the withdrawal noted on the withdrawal slip. This cash will be separate from cash receipts for accounting purposes.
- Cash withdrawals should never exceed \$750.00.
- For events, at least two TACEO members shall count and reconcile all monies received. All cash and checks are given to the Treasurer and the Treasurer issues a receipt with his/her signature and signatures of the two people who reconciled the money. Two people closing the event must reconcile all monies. Cash in advance will be separate.
- Upon receipt of cash, the Treasurer and a designee appointed by the Executive Committee of the cash will complete a cash disbursement voucher that details the description of expense account to be charged and contains authorization signature and accompanying receipts and/or invoices. When the cash is returned, the bottom portion of the voucher noted "cash reimbursement" will be completed and signed. When the deposit is made, a separate deposit should be made for the cash and the same notation placed on the deposit slip.
- Cash should be redeposited within 3 business days from the event in which it was used.

Invoice Preparation:

The Treasurer gathers relevant expense documentation, prepares all invoices to all 95 counties for yearly TACEO dues, and submits to the Administrators of each county by November 1. This shall be sent either electronically or via postal service. Outstanding receivables are monitored once a month by the Treasurer with the President receiving monthly updates.

Signature Requirements:

- The Treasurer and President of TACEO will be signers on the TACEO checking account.

- Online access to the TACEO checking account should be available to the Treasurer, President, and Secretary.
- Check signers shall review supporting documentation of expenses and approvals at the time of signing checks.
- Signed checks must be mailed promptly.
- Paid invoices are marked paid and attached to a copy of the check prior to filing.
- Signing checks in advance is prohibited.
- Signing blank checks and/or using a signature stamp is/are prohibited.
- For expenditures of \$1,000 or more, a co-signer is required.
- If the co-signer is not available, written authorization must be made in advance and may be in the form of an email with dates, times, amount, and purpose where it is visible.

Deposits:

- Every check received shall immediately be stamped / written on back "For Deposit Only".
- Deposits shall be made within three (3) days of receipt.
- A deposit log will be made for all deposits. The log will include payer, reason for payment, amount and date. A copy of the deposit slip along with the receipt received from the banking institution is required. Deposit slips should equal the deposit log. Explanations are always required with the two do not balance. When possible the deposits will be separated by reason (example due, registration, etc.)
- In the event a deposit check is returned for insufficient funds, the Treasurer shall contact the payer and request payment.
- Deposits should be made in keeping with the chart of accounts and logged into the accounting system.

Debit Cards:

- A debit card related to the TACEO account is permissible and only issued to the Treasurer and President of TACEO.
- Due to the potential for theft, misuse, and auditing problems, use of debit cards is monitored carefully.
- The Executive Committee shall be notified immediately of any lost debit cards or misuse of a debit card.
- All purchases made with a debit card must be accompanied by invoices and/or receipts with an explanation of the expense.
- All debit card purchases are entered into the check register / books and must be done on a monthly basis.

Maintaining Auditable Records:

- The bank account shall be reconciled monthly at the time the bank statement is received. These reconciliations should be kept with the bank statement. Records should be retained in keeping with the retention policies of TACEO.
- Each grand division shall provide the Treasurer with a quarterly statement of finances in order to comply with TACEO's Fiscal Policies and Procedures.

Reimbursement Policy

General Guidelines:

Reimbursements to TACEO members who use personal funds for the purpose of TACEO will be reimbursed provided they adhere to the Fiscal Policies & Procedures of the Association. All reimbursements are subject to approval by each committee chairman or President.

Procedures:

Reimbursements for Expenses, Invoices, Lodging, & Travel

- All reimbursements requested shall be submitted on the approved TACEO Reimbursement form accompanied by receipts, invoices, purpose, and mileage documentation.
- Meals are reimbursed based on the State's per diem rates that are subject to change without notice.
- Mileage is reimbursed for legitimate business-related travel by personal vehicle for official TACEO business. The reimbursement rate for mileage is the current rate set by the State of Tennessee and is subject to change without notice.
- Transportation (Uber, taxi, Lyft) will be reimbursed with proper receipts and approvals.
- Parking violations and tickets are not reimbursable.
- Any additional costs associated with travel with a spouse/friend/relative are not reimbursable.
- Hotel accommodations are generally arranged by TACEO at a discounted group rate. In the event lodging is not available at the group rate, perhaps the member can obtain a discount using his/her county ID as a good-faith effort.
- Reimbursements are checked for mathematical accuracy and reasonableness before approval.
- All expenses must be approved by the Committee Chair or the President (or his designated Executive Committee member).
- The requester shall sign the form and the committee chairman shall approve the reimbursement with the Treasurer via phone or email.
- The Treasurer shall receive all requests for reimbursement shall submit payment within 10 business days.

Financial Planning & Reporting

General Guidelines:

The Budget Policy establishes a standard by which to measure performance, encourage planning, and allocate resources in accordance with funding source requirements.

Procedures:

Budgets are compiled annually by the Budget & Finance Committee and distributed to the Executive Committee for final adoption. Once adopted the budget will be distributed to the chairman of all other committees. Budgets should be in place no later than October 1 of each year.

Budget Revisions:

From time to time it will be necessary to deviate from the spending plans captured in the organizational budget.

Non-budgeted expenditures will be presented to the Budget & Finance Committee for consideration. The request must include all supporting documentation. If approved by the Budget & Finance Committee, the request will go to the Executive Committee for final authorization.

Internal Financial Reports:

On behalf of TACEO, an accounting firm will prepare regular financial reports on a quarterly basis according to the terms of the letter of engagement with the accounting firm. All reports are finalized no later than 30 days after the close of the prior quarter. All financial records will be maintained in accordance with the Statement of Financial Accounting Standards for Not-for-Profits (FASB).

Financial Statements of Not-for-profit organizations

This statement establishes standards for general-purpose external financial statements provided by a not-for-profit organization. Its objective is to enhance the relevance, understandability, and comparability of financial statements issued by those organizations. It requires that those financial statements provide certain basic information that focuses on the entity as a whole and meets the common needs of external users of those statements.

This Statement requires that all not-for-profit organizations provide a statement of financial position, a statement of activities, and a statement of cash flows. It requires reporting amounts for the organization's total assets, liabilities, and net assets in a statement of financial position; reporting the change in an organization's net assets in a statement of activities; and reporting the change in its cash and cash equivalents in a statement of cash flows.

External Audit

General Guidelines:

This Policy represents the policy of Tennessee Association of County Election Officials (TACEO) governing external audits and the need for transparency and member confidence in all of TACEO's accounting practices.

Procedures:

1. TACEO will have an audit prepared by an external CPA firm not under contract with TACEO at least biannually. This audit will be done prior to the end of the term of the Treasurer. The audit will be done regardless of reelection of a current Treasurer.
2. At no time will a CPA (firm or individual) be related to any member of TACEO.
3. The CPA firm on contract will review the audit from the external CPA firm hired to perform the audit.
4. If the audit reveals any "findings", the CPA on contract will provide the Executive Committee and the Budget & Finance Committee with a plan to rectify all findings.
5. The Executive Committee will make a determination if all TACEO members should be made aware of "findings". This decision will be based on the severity of any findings. (Example: Immediately notify all members if there is misappropriation of money, loss of tax exempt status, failure to file IRS 990, etc. Do not notify members if IRS 990 form had wrong answers to a few questions).
10. All records will be retained in keeping with the Records Retention Policy.

Tax Compliance - IRS Form 990 Preparation Policy

General Guidelines:

This Policy represents the policy of Tennessee Association of County Election Officials (TACEO) commitment to retention of the organizations non-profit status by compliance with the regulations on timely filing of the IRS 990 Form.

Procedures:

1. A contracted CPA firm or individual will prepare the organization's annual Form 990 for submission to the IRS.
2. The President shall serve as the liaison to the tax preparer.
3. The President reviews the tax returns prior to filing and has the ultimate approval authority.
4. The President will present the completed 990 Form to the Executive Committee for final approval prior to submission to the IRS.
5. The filed 990 is available to the membership per Open Records Act.
6. All 990 Forms will be retained in keeping with the Records Retention Policy.

Internal Controls Policy

General Guidelines:

The Tennessee Association of County Election Officials (TACEO) employs several safeguards to ensure that financial transactions are properly authorized, appropriated, executed and recorded. This prevents deliberate or misguided use of funds for unauthorized purposes. TACEO is committed to sound internal controls that includes Conflict of Interest, Segregation of Duties, and Physical Security. This is necessary to create accountability, transparency, and to prevent misuse of organizational assets.

Conflict of Interest

All members of the TACEO membership, including committee members, are expected to use good judgment, to adhere to high ethical standards, and to act in such a manner as to avoid any actual or potential conflict of interest. A conflict of interest occurs when the personal, professional, or business interests of any TACEO member conflicts with the interests of the organization. Both the fact and the appearance of a conflict of interest should be avoided. Should there be any dispute as to whether a conflict of interest exists, the Executive Committee shall determine whether a conflict of interest exists and shall determine the appropriate response.

Segregation of Duties

TACEO's financial duties are distributed among multiple people to help ensure protection from fraud and error. The distribution of duties aims for maximum protection of the organization's assets while also considering efficiency of operations.

Procedures:

- Check signers will not be involved in expense approval or basic accounting procedures.
- Expenditures to be paid will be authorized by someone other than the person writing the check and paying the invoice. Example: Each committee chairman must authorize expenses for their committee. The Chairman of the Budget & Finance Committee, however, will have expenses authorized by two different members of the Budget & Finance Committee.
- Bank statements will be reviewed by at least one person in addition to the person performing the reconciliation. (Treasurer & CPA)
- Bank deposits will be made by someone other than the person recording receipts. All revenue will be sent directly to the bank for deposit. The Treasurer will retain all supporting documentation related to the deposit. The CPA or their designate will post all revenue and expenses.

Gifts & Giving Policy

General Guidelines:

This Policy represents the policy of the Tennessee Association of County Election Officials (TACEO) governing the giving of gifts by the Organization. TACEO is committed to treating all members of the organization impartially and equally. This policy will not usurp the Code of Conduct for County Election Commission Members and Administrator of Elections.

The Vice-President(s) from each grand division shall inform their division's counties and the TACEO President, Secretary or Treasurer of any news to be shared.

Procedures:

Memorials & Sympathy Gifts: Honorariums, memorials, and sympathy gifts left up to the discretion of each grand division.

Acceptance of Gifts: TACEO will be in compliance with TCA 2-9-118 as it pertains to acceptance of gifts from vendors. All members of TACEO will abide by TCA 2-9-118 and in no way does this policy relieve any member of compliance with the law.

2-9-118 - Prohibited acts by voting systems vendor or vendor's agent -- Prohibited solicitation or acceptance by election officials. [Effective on October 1, 2019.]

(a) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not offer or attempt to offer anything of value to a state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons.

(b) An agent of a voting systems vendor shall not knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which the voting systems vendor is responsible to a state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; or an employee of the state election commission, the county election commission, or the secretary of state.

(c) A state election commission member; county election commission member; secretary of state; coordinator of elections; administrator of elections; employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not solicit or accept anything of value in violation of subsection (a).

(d) A voting systems vendor shall not make a loan of money to a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the

county election commission, or the secretary of state; or an immediate family member of such persons, or to any other person on such person's behalf.

(e) A state election commission member; county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not solicit or accept a loan in violation of subsection (d).

(f) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not permit a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, to use the credit or a credit card of the voting systems vendor.

(g) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not pay the lodging expenses of a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons.

(h) A state election commission member; county election commission member; the secretary of state; coordinator of elections; administrator of elections; employee of the state election commission, the county election commission, or the secretary of state; or an immediate family member of such persons, shall not accept travel expenses, meals, or lodging paid by a voting systems vendor or agent of the voting systems vendor.

(i) An agent of a voting systems vendor or any person acting on behalf of a voting systems vendor shall not provide a gift, directly or indirectly, to a state election commission member; a county election commission member; the secretary of state; the coordinator of elections; the administrator of elections; an employee of the state election commission, county election commission, or the secretary of state; or an immediate family member of such persons, unless the gift is a novelty, such as a pin, button, pen, or similar small item or token routinely given to customers, suppliers, or potential customers or suppliers in the ordinary course of business.

Fundraising, Door Prizes & Merchandise Sales Policy

General Guidelines:

The purpose of this policy is to establish a standard by which standardize fundraising efforts of the Tennessee Association of Certified Election Officials (TACEO).

Procedures:

Cash: The following guidelines will apply:

- Upon receipt of cash used to make change, the recipient will count the money and sign the cash disbursement and receipt form. This form denotes receipt of cash and return of the same amount.
- A separate slip for both the withdrawal and deposit of cash shall be required with a note on both slips stating "cash".

Checks: The following guidelines will apply:

- Checks written to "cash" are prohibited.
- Checks received will be acceptable and preferred for merchandise sales and fundraising events.
- At no time will a check be accepted for cash or that is in excess of the amount due, to allow cash back to the check writer.

Door Prizes: The following guidelines will apply:

- Door prizes must be donated by the individual.
- Door prizes shall not be purchased using county funds as this is tax payer money.
- Participation is voluntary.

Merchandise Sales: The following guidelines will apply:

- A receipt will be issued for every transaction. The receipt will denote the amount & method of payment. If a check was presented, the check number will be noted.
- A beginning and ending inventory will be maintained.
- A reconciliation of cash/checks paid will be completed to match the receipts.
- Sales tax must be collected for any & all sales in excess of \$4,800.00.
- All items must be paid at the time of receipt.

Fundraising (Live & Silent Auction, etc.): The following guidelines will apply:

- Participation in Live or Silent auctions is voluntary.
- All items donated must be paid by the person donating the item. No county taxpayer money will be used to purchase items.
- A receipt will be issued for every transaction. The receipt will denote the amount & method of payment. If a check was presented, the check number will be noted.
- A reconciliation of cash/checks paid will be completed to match the receipts.
- All items must be paid at the time of receipt.

Purchasing of Products & Services Policy

General Guidelines:

The Purchasing Policy establishes a standard process for vendors to quote for products and services and for purchases made by the Tennessee Association of County Election Officials (TACEO).

Procedures:

- A minimum of two (2) quotes are required for all TACEO purchases in excess of \$5,000.
- Quotes must be retained in keeping with the TACEO records retention policy.
- At no time are family members allowed to quote on or provide services and/or products to TACEO. (see Internal Controls policy)
- Price should be one factor in the evaluation of quotes, but the organization is not required to take the lowest price if other factors are important to the decision. Factors to consider include, but are not limited to, product quality, availability, vendor service, etc.
- When accepting a quote, the quote must include a product description, quantity ordered, and an individual product or service amount. Invoice should include a grand total and include all shipping fees.
- All quotes received must be approved by the President and the Chair of the Budget & Finance Committee prior to submitting any orders or contracting services.
- Immediately after acceptance of the quote, the original copy of the quote must be sent to the Treasurer.
- Upon receipt of the product(s) and inspection for damage and accuracy, the invoice should be signed by the President and Budget & Finance Committee Chair and sent to the Treasurer for payment and proper record keeping.

Vendor and Contractual Agreements:

The following policies govern how decisions to enter into agreements with vendors or contractors will be conducted:

- All vendor agreements and contracts for services must be authorized by a minimum of two people.
- Only the President and appropriate committee chairman may sign a contractual or vendor agreement.
- Upon signing any vendor or contractual agreements, the original is sent to the Treasurer who will store it both electronically and physically.
- The Treasurer will maintain a secure file of all vendor and contractual agreements.
- All agreements will be retained in keeping with the records retention policy.
- All vendors must submit an IRS Form W-9 Request for Taxpayer Identification and Certification prior to payment.
- A determination will be made by the contracted CPA on the need to file an annual IRS For 1099-Misc on payment to vendors.

Inventory Policy

General Guidelines:

The Inventory Policy establishes a process for the recording, identification, safeguarding and accountability of all Tennessee Association of County Election Officials (TACEO) owned furnishings and movable equipment items (Equipment) having a minimum cost of \$500 each and a life expectancy of two years.

Procedures:

- All items are to be inventoried by the serial number of each item.
- No item of equipment should be discarded without the express signed authorization of the Treasurer and President. A liquidation of assets form must be completed prior to discarding any equipment.
- Divisions or designee shall be responsible for the equipment assigned to them. The equipment assigned shall not be permanently transferred without written approval of the Treasurer and President.
- Records shall be maintained by the Treasurer for a period of five (5) years.

Records Retention & Destruction Policy

General Guidelines:

This policy identifies the record retention responsibilities of the Executive Committee of the Tennessee Association of County Election Officials (TACEO) for maintaining and documenting the storage and destruction of the organization's documents and records.

Procedures:

Financial Records:

Leadership is required to adhere to the following practices:

1. Paper or electronic documents will be maintained in keeping with the retention and destruction policy set forth by the County Technical Assistance Service (CTAS).
2. Accounting, Purchasing and Other Miscellaneous Records policies are noted under reference #: CTAS-2062.
3. All documents will be destroyed in keeping with the CTAS schedule.
4. All other electronic documents will be deleted from all individual computers, data bases, networks, and back-up storage in keeping with the CTAS schedule.
5. No documents or electronic documents will be destroyed or deleted if pertinent to any ongoing or anticipated investigation, audit or private litigation.
6. All original documents (paper & electronic) will be forwarded to the newly elected officer within 30 days of the election.

Meeting Minutes:

1. TACEO shall keep as permanent records minutes of all meetings of its members, executive committee and all other committees.
2. Meeting minutes shall record all action items taken by the members.

Various Corporate Documents:

1. By-laws (past & present) shall be retained by the Secretary and are considered a permanent record.
2. Fiscal Policies & Procedures shall be retained by the Secretary and are considered a permanent record.
3. A list of Committee Members (past & present) shall be retained by the Secretary and are considered permanent record.
4. Nonprofits Designation/Charter documentation should be retained by the Treasurer and a copy provided to the Secretary. All documents are considered permanent record.
5. Liability Insurance Bond Policy is retained by the Treasurer and a copy provided to the Secretary. All documents are considered permanent record.

Open Records Requests (Inspection of records by members):

1. A member is entitled to inspect and copy, during regular business hours and at a reasonable location specified by TACEO, any records if the member gives TACEO a

written request at least five (5) business days before the date on which the member wishes to inspect and copy.

2. Copies may be provided through an electronic transmission if available and requested by the member.
3. TACEO may impose a reasonable charge to cover the cost of labor and materials for copies of documents and mailing of documents to a member. The charge must not exceed the estimated cost of production, reproduction or transmission of the records.

From: Kim Buckley
Date: May 23, 2019 at 10:22:19 AM CDT
To: "Phil Bryant"
Subject: re: TACEO

I do not recall when I disposed of the bank statements and paid bills. I estimate it was about six months ago. They were kept in a safe and my motivation at the time was to make more room in the safe for voting equipment that needs to be secured.

I have one definite memory about the other bank account. When I served as treasurer, I had no knowledge of another bank account. I only learned of its existence the morning after the new treasurer was elected. We were in Kingsport at the Marriott hotel in 2011. After the business meeting, the treasurer prior to my two year term, Jane Heathcott, and I sat down with the new treasurer, Leigh Schlager and the new president, Darren Thompson. We were discussing how we should handle the transition of the TACEO funds when Mrs. Heathcott mentioned that there was another account. I believe that she referred to it as a savings account and I assume the account was in a bank in Dyersburg, where she served as AOE for many years, but I don't know. I just know how startled and bewildered I felt because this had never been mentioned to me. I was rather disgusted and I did not discuss it later with Mrs. Heathcott. I just resolved that I would never run for any state office in TACEO again and I haven't. I don't have any personal knowledge of whether that account was moved to a bank in another county.

Not to appear contradictory, I want to explain that I am treasurer of the West Tennessee division of TACEO. Each of the three grand divisions has a treasurer and in 2015, our treasurer died unexpectedly. She was the only signatory on the bank account in Ripley. In order to obtain the funds, the

bank required us to appoint another treasurer and provide the minutes that showed we did so. I was elected and the bank added me as a signer to the account. Since our division meets almost exclusively in Jackson, the general consensus was that it would be best for me to be the treasurer and be able to take care of business more conveniently. There was \$6,357.64 in the account. I transferred \$5000 and then after all checks had cleared, I went to the Lauderdale County Bank and closed the account with the bank providing a cashier's check for the balance. I retrieved a box of records from the Lauderdale Election Commission which I still have. I immediately audited the records going back to 2010. I found everything to be in good order. I have kept meticulous records since that time and can have them available for anyone to audit. Seeing the danger of having only one signer, our West Tennessee division also elected an assistant treasurer, who is also a signer. We opened an account at Regions Bank because there are so many branches in West Tennessee and when I was no longer treasurer, perhaps we wouldn't have to move the account to another bank. My term will end this year. I will not serve again.

Kim Buckley

Administrator of Elections
Madison County Election Commission
311 North Parkway
Jackson, Tennessee 38305
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Email: kbuckley@madisoncountyttn.gov
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MADISON
COUNTY

Code of Conduct
For
County Election Commissioners
And
Administrator of Elections
December 3, 2019

Code of Conduct for County Election Commission Members and Administrators of Elections

County Election Commission members and Administrators of Elections are expected to faithfully and impartially discharge the duties of their office in order to conduct fair and trustworthy elections. The actions and conduct of the County Election Commission members and the Administrator of Elections impact the integrity of the election process. To further the interest of instilling confidence in the electoral process, County Election Commission members and Administrators of Elections must observe and follow the Code of Conduct as described below:

1. Comply with existing laws governing the conduct of elections in Tennessee;
 - a. TCA §§ 2-1-111, 2-1-102
2. Implement the election laws in a fair and impartial manner;
 - a. TCA §§ 2-1-111, 2-1-102, 2-2-203, 2-12-116 and CEC policies
3. Demonstrate impartiality and fairness to all voters, political parties, candidates and their representatives and all members of the public;
 - a. TCA §§ 2-1-111, 2-1-102, 2-12-116 and CEC policies
4. Do not make disparaging or supportive comments or remarks about candidates or issues on the ballot, including but not limited to writing letters to the editor of a newspaper or posting comments on an internet blog; Facebook, Twitter, Instagram or any other social media, or participating in any way with direct mail, TV, radio, or other forms of communication in favor for or against any candidate or ballot referendum, identifying your position as a County Election Commission member or Administrator of Elections;
 - a. TCA §§ 2-1-111, 2-1-102
5. Protect the secrecy of each voter's ballot;
 - a. TN Const. Art. IV, § 4 (as interpreted by *Mooney v. Phillips*, 118 S.W.2d 224 (1938) and *Burson v. Freeman*, 112 S. Ct. 1846 (1992)); Atty. Gen. Op. No. 96-027
6. Do not provide favors or divulge information which may be advantageous to candidates, or political parties, or ballot issues, unless such favor or information is available or provided to all candidates and political parties;
 - a. TCA §§ 2-1-111, 2-1-102
7. Do not to participate in the consideration of any election commission decisions involving immediate family members whose names appear on the ballot; and
 - a. TCA §§ 2-1-111, 12-4-114, SEC
8. Conduct all duties in a professional manner.
 - a. TCA §§ 2-1-111, 2-1-102, 2-2-203, 2-12-116, CEC policies

Violations of the Code of Conduct may result in disciplinary actions in accordance with the State Election Commission's statutory authority under Tenn. Code Ann. § 2-12-101, including removal of a county election commission member or decertification of a certified Administrator of Elections.

**State Election Commission
Code of Conduct for CEC and AOE
Final Policy
Adopted - December 3, 2019**

County Election Commission members and Administrators of Elections are expected to faithfully and impartially discharge the duties of their office in order to conduct fair and trustworthy elections. The actions and conduct of the County Election Commission members and the Administrator of Elections impact the integrity of the election process. To further the interest of instilling confidence in the electoral process, County Election Commission members and Administrators of Elections must observe and follow the Code of Conduct as described below:

1. Comply with existing laws governing the conduct of elections in Tennessee;
 - a. TCA 2-1-111, 2-102
2. Implement the election laws in a fair and impartial manner;
 - a. TCA 2-1-111, 2-1-102, 2-2-203, 2-12-116 & CEC policies
3. Demonstrate impartiality and fairness to all voters, political parties, candidates and their representatives and all members of the public;
 - a. TCA 2-1-211, 2-1-102, 2-12-116 & CEC policies
4. **Do not make** disparaging or supportive comments or remarks about candidates or issues on the ballot, including but not limited to writing letters to the editor of a newspaper or posting comments on an internet blog; Facebook, Twitter, Instagram or any other social media, or participating in any way with direct mail, TV, radio, or other forms of communication in favor **for** or against any candidate or ballot referendum, identifying your position as a County Election Commission member or Administrator of Elections;
 - a. TCA 2-1-111, 2-1-102
5. Protect the secrecy of each voter's ballot;
 - a. TN Const. Art IV, 4 (as interpreted by *Monney V Phillips* 118 S.W.2d 224 (1938) and *Burson v Freman* 112 S Ct 1846) ; AG Opinion 96-027
6. **Do not** provide favors or divulging divulge information which may be advantageous to candidates, or political parties, or ballot issues, unless such favor or information is available provided to all candidates and political parties;
 - a. TCA 2-1-111, 2-1-102
7. **Do not** participate in the consideration of any election commission decisions involving immediate family members whose names appear on the ballot; and
 - a. TCA 2-1-111, 12-4-114, SEC
8. Conduct all duties in a professional manner;
 - a. TCA 2-1-111, 2-1-102, 2-2-103, 2-12-116, CEC policies

Violations of the Code of Conduct may result in disciplinary actions in accordance with the State Election Commission's statutory authority under Tenn. Code Ann. § 2-12-101, including removal of a county election commission member or decertification of a certified Administrator of Elections

Kathy Summers

From: Donna Barrett <donna.barrett@barrett.net>
Sent: Friday, September 27, 2019 2:12 PM
To: 'Mike McDonald'; Mark Goins; kentyounce@comcast.net
Cc: Kathy Summers
Subject: [EXTERNAL] Code of Conduct review
Attachments: scan0036.pdf

*** This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email - STS-Security. ***

Mr. Chairman and Coordinator Goins:

Attached you will find the latest draft of the Code of Conduct that Commissioner McDonald and I were tasked to review. We are in agreement of the items listed herein, please note grammatical changes are highlighted in yellow. The attached document also contains the referenced TCA code and / or other legal documents that give support to Code already being expected practice.

I know this item is not on the October 7, 2019 agenda but were the board to ask for an update under old business, Commissioner McDonald is well versed to present our support of this document.

Commissioner McDonald and I thank the board for the opportunity to work on this project.

Sincerely,
Commissioner Donna Barrett

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Document: Tenn. Code Ann. § 2-1-111[< Previous](#)[Next >](#)**Tenn. Code Ann. § 2-1-111****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 2 Elections](#) [Chapter 1 General Provisions](#)**2-1-111. Oath of administrators of election laws.**

Each person charged with the administration of any part of the election laws of this state shall, before entering upon the performance of such duties, take the following oath:

"I do solemnly swear (affirm) that I will support the Constitution and laws of the United States and the Constitution and laws of the State of Tennessee, and that I will faithfully and impartially discharge the duties of my office."

History

Acts 1972, ch. 740, § 1; T.C.A., § 2-111.

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Document: Tenn. Code Ann. § 2-1-102[< Previous](#)[Next >](#)**Tenn. Code Ann. § 2-1-102****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 2 Elections](#) [Chapter 1 General Provisions](#)**2-1-102. Purpose.**

The purpose of this title is to regulate the conduct of all elections by the people so that:

- (1) The freedom and purity of the ballot are secured;
- (2) Voters are required to vote in the election precincts in which they reside, except as otherwise expressly permitted;
- (3) Internal improvement is promoted by providing a comprehensive and uniform procedure for elections; and
- (4) Maximum participation by all citizens in the electoral process is encouraged.

History

Acts 1972, ch. 740, § 1; T.C.A., § 2-102.

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Tenn. Code Ann. § 2-2-203

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Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 2 Elections](#) [Chapter 2 Voter Registration](#) [Part 2 Registration by Other State Agencies](#)

2-2-203. Prohibited acts by registering agencies -- Penalty.

- (a)** A person who provides service described in § 2-2-202 shall not:
- (1)** Seek to influence an applicant's political preference or party registration;
 - (2)** Display any such political preference or party allegiance; or
 - (3)** Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote.
- (b)** A violation of this section is a Class C misdemeanor.

History

Acts 1994, ch. 947, § 4.

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Document: Tenn. Code Ann. § 2-12-116[< Previous](#)[Next >](#)**Tenn. Code Ann. § 2-12-116****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 2 Elections](#) [Chapter 12 County Election Commissions](#) [Part 1 General Provisions](#)

2-12-116. Duty to promote voter registration and the electoral process.

The county election commission shall promulgate such policies as 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. These duties shall include the following:

- (1) The commission shall appoint an administrator of elections, who shall be the chief administrative officer of the commission and shall be responsible for the daily operations of the commission office and the execution of all elections. After May 31, 1993, any administrator appointed at large for the first time to such position shall possess a high school education or GED(R). In evaluating a prospective appointee, the commission shall consider the knowledge and experience of such prospective appointee in the following areas: administrative, managerial, instructional, communication, budgetarial, purchasing, promotional, legal and general office skills and other related skills necessary to fulfill the statutory requirements of administrator;
- (2) Upon the recommendation of the administrator, the commission shall approve an annual budget for the operation of the election commission;
- (3) Upon the recommendation of the administrator, the commission shall be responsible for approving any voting equipment to be purchased by the county for use by the commission;
- (4) Upon the recommendation of the administrator, hire legal counsel if necessary to conduct the business of the commission;
- (5) The commission shall appoint voting machine technicians as required in § 2-9-103. A voting machine technician shall work under the direction of the administrator;
- (6) The commission shall certify all voting machines prior to each election and shall canvass all voting machines after each election;

- (7) The commission shall assist the administrator in designating polling places, precinct boundaries and, in conjunction with the primary boards and the administrator, shall assist in obtaining and appointing poll workers as needed for each election;
- (8) The commission shall be responsible for locking or sealing all absentee ballot boxes and shall retain possession of the keys for such boxes;
- (9) The commission members shall be available to assist election commission personnel upon request throughout each election day;
- (10) The commission may act as the central absentee counting board if the total number of absentee ballots to be counted is fewer than one hundred (100);
- (11) The commission shall be responsible for certifying the results of each election in regard to official tabulations and shall be responsible for certifying all expenses incurred in regard to the commission's responsibility in the performance of its duties for a presidential preference primary or a special election for the sole purpose of selecting a member of the general assembly;
- (12) The commission shall be responsible for the keeping and writing of the minutes of all commission meetings;
- (13) The commission shall be responsible for determining a uniform time for the opening of the polls;
- (14) The commission members shall not request, except in the event of an emergency, that the administrator employ members of the county election commission, their spouses, parents, brothers, sisters or children, including in-laws, of commission members as clerical assistants, absentee voting deputies, poll officials or as a member of the absentee counting board;
- (15) The commission shall be responsible for maintaining the security of the election commission office and any other rooms or facilities it may use in the performance of its duties, including all locks and keys. The commission may delegate this responsibility to the administrator; and
- (16) The commission members shall not appoint or hire, except in the event of and during an emergency, spouses, parents, brothers, sisters, or children, including in-laws, of the administrator as deputies, clerical assistants, absentee voting deputies, machine technicians, poll officials, or as members of the absentee counting board.

History

Acts 1993, ch. 518, §§ 1, 21; 1994, ch. 859, § 10; 1997, ch. 558, § 17; 2011, ch. 236, § 1; 2013, ch. 268, §§ 1, 6.

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**Document:** Tenn. Code Ann. § 2-7-111[< Previous](#)[Next >](#)**Tenn. Code Ann. § 2-7-111****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 2 Elections](#) [Chapter 7 Procedure at the Polling Place](#)

2-7-111. Posting of sample ballots and instructions -- Arrangement of polling place -- Restrictions.

(a) The officer of elections shall have the sample ballots, voting instructions, and other materials which are to be posted, placed in conspicuous positions inside the polling place for the use of voters. The officer shall measure off one hundred feet (100') from the entrances to the building in which the election is to be held and place boundary signs at that distance.

(b)

(1) Within the appropriate boundary as established in subsection (a), and the building in which the polling place is located, the display of campaign posters, signs or other campaign materials, distribution of campaign materials, and solicitation of votes for or against any person, political party, or position on a question are prohibited. No campaign posters, signs or other campaign literature may be displayed on or in any building in which a polling place is located.

(2) Except in a county with a population of not less than eight hundred twenty-five thousand (825,000) nor more than eight hundred thirty thousand (830,000) according to the 1990 federal census or any subsequent federal census, a solicitation or collection for any cause is prohibited. This does not include the normal activities that may occur at such polling place such as a church, school, grocery, etc.

(3) Nothing in this section shall be construed to prohibit any person from wearing a button, cap, hat, pin, shirt, or other article of clothing outside the established boundary but on the property where the polling place is located.

(c) The officer of elections shall have each official wear a badge with that official's name and official title.

(d) With the exception of counties having a metropolitan form of government, any county having a population over six hundred thousand (600,000) according to the 1970 federal census or any subsequent federal census, and counties having a population of between two

hundred fifty thousand (250,000) and two hundred sixty thousand (260,000) by the 1970 census, any county may, by private act, extend the one hundred foot (100') boundary provided in this section.

History

Acts 1972, ch. 740, § 1; T.C.A., § 2-711; Acts 1980, ch. 543, §§ 1, 2; 1987, ch. 362, §§ 1, 2, 4; 1993, ch. 465, §§ 1, 2; 1993, ch. 518, §§ 11, 21; 1994, ch. 582, § 1; 2003, ch. 307, § 6.

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**Document:** Tenn. Code Ann. § 3-6-305[< Previous](#)[Next >](#)**Tenn. Code Ann. § 3-6-305****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 3 Legislature](#) [Chapter 6 Ethics and Lobbying](#) [Part 3 Lobbyists](#)

3-6-305. Prohibited gifts -- Exceptions.**(a)**

(1) No employer of a lobbyist or lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or the immediate family of such candidate or official, may not solicit or accept, directly or indirectly, a gift from an employer of a lobbyist or a lobbyist.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate or official or the immediate family of a candidate or official, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

(2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

(3) Gifts that are given for a nonbusiness purpose and motivated by close personal friendship, but only to the extent such gifts are specifically defined and authorized by the rules of the ethics commission;

(4) Sample merchandise, promotional items, and appreciation tokens, if such merchandise, items and tokens are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; provided, that any such item shall not be in a form that can be readily converted to cash;

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including, but not limited to:

(A) Discounts afforded to the general public or specified groups or occupations under normal business conditions, except that such discounts may not be based on the status of the candidate or official;

(B) Prizes and awards given in public contests; and

(C) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in § 48-101-501, if provided by an employer of a lobbyist to an official in the executive branch or to an official in the legislative branch; provided, that such events are open to participation by persons other than officials in the executive branch or officials in the legislative branch or the official's immediate family and any benefits received are not enhanced due to the status of the official in the executive or legislative branch; or provided, that invitations are extended to the entire membership of the general assembly;

(7)

(A) Expenses for out-of-state travel, if such expenses are paid for or reimbursed by a governmental entity or an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff;

(B) Entertainment, food, refreshments, meals, beverages, amenities, goody bags, exhibitor promotional items given in the exhibit hall to conference attendees, health screenings, lodging, or admission tickets that are provided in connection with, and are arranged or coordinated through the employees or designated agents of, a conference, if the conference is sponsored by an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff. For purposes of this subdivision (b)(7)(B), any entertainment, food, refreshments, meals, beverages, amenities, goody bags, or admission tickets provided at events designated as a state night or other events for attendees of the conference shall be deemed to be provided in connection with, and arranged or coordinated through the employees or designated agents of the conference;

(8) Entertainment, food, refreshments, meals, beverages, or health screenings that are provided in connection with an in-state event to which invitations are extended to the entire membership of the general assembly; however, a copy of the invitation shall be delivered to the ethics commission and to each member of the general assembly at least seven (7) days in advance of the event by the employer or lobbyist paying for the event; provided further, however, that, within thirty (30) days following the event, the employer or lobbyist shall electronically report to the commission the total aggregate cost paid for the event, as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty dollars (\$50.00) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below the monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. All such information delivered or reported to the commission shall be promptly posted on the commission's Internet site. The filing of a consolidated report may be authorized by rule, promulgated pursuant to § 4-55-103(1), if the costs of the event are shared by two (2) or more employers or lobbyists; however, any such report shall specify the allocation of the costs among the employers or lobbyists; provided further, however, that the employers or lobbyists shall remain individually accountable for the timeliness and accuracy

of the consolidated filing. The fifty dollar (\$50.00) limitation shall be increased to the nearest one dollar (\$1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics, every odd-numbered year on January 1, starting in 2007. The ethics commission shall publish the increased amount on its web site;

(9) Entertainment, food, refreshments, meals, amenities, or beverages that are provided in connection with an in-state event at which a candidate for public office, an official in the legislative branch or an official in the executive branch, or an immediate family member of the candidate or official is a speaker or part of a panel discussion at a scheduled meeting of an established and recognized membership organization that has regular meetings; however, the cost of the entertainment, food, refreshments, meals, amenities, or beverages shall be paid for or reimbursed by the membership organization and the per person cost of the event, which shall not exceed fifty dollars (\$50.00) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. The fifty dollar (\$50.00) limitation shall be increased to the nearest one dollar (\$1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(10) (A) Food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event to which invitations are extended to an official or officials in the legislative branch or official or officials in the executive branch; provided, that:

(i) No employer of a lobbyist may provide food, refreshments, meals, or beverages, the value of which to the official exceeds fifty dollars (\$50.00) per event per day, excluding sales tax and gratuity; nor may such employer of a lobbyist provide any such items to any official pursuant to this subdivision (b)(10)(A)(i) that have a cumulative value of more than one hundred dollars (\$100) to the official during a calendar year;

(ii) The value of any such gift may not be reduced below such monetary limitations by dividing the cost of the gift among two (2) or more employers of lobbyists;

(iii) This exception to the prohibition in subsection (a) only applies to a member or members of the general assembly, if the member or members do not receive a per diem allowance pursuant to § 3-1-106, for the day on which the event is held and the member or members do not receive any food, refreshments, meals or beverages that are provided in connection with the in-state event that are not offered or provided to other nonmembers in attendance at the event; and

(iv) An officer or management-level employee of each employer of a lobbyist paying for the event shall attend the event; however, a lobbyist shall not be considered to be an officer or management-level employee of an employer of the lobbyist paying for the event for purposes of this subdivision (b)(10)(A)(iv).

(B) The fifty dollar (\$50.00) and one hundred dollar (\$100) amounts in subdivision (b)(10)(A)(i) shall be increased to the nearest one dollar (\$1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(11) Occasional or incidental local travel for which no fare is ordinarily charged; or

(12) [Expired, see the Compiler's Notes]

(c) If an official in the legislative or executive branch attends an event and accepts a gift that is provided by a person or entity not subject to the prohibition set forth in § 3-6-305(a), and if a lobbyist also attends the event and knows or has reason to know that the gift has been provided at the suggestion or direction of the lobbyist, then, within seven (7) days following the event, the lobbyist shall electronically report the following information to the ethics commission:

- (1) Name of the official or family member;
- (2) Nature and purpose of the event;
- (3) Name, address and business of the person or entity that provided the gift;
- (4) Description of the gift; and
- (5) Cost of the gift; however, if the cost of the gift is unknown and not reasonably discernible by the lobbyist, then the lobbyist shall report a good faith estimate of the cost of the gift.

(d) A gift made contrary to this section, shall not be a violation of this section, if the candidate, official or immediate family member does not use the gift and returns it to the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation.

History

Acts 2006 (1st Ex. Sess.), ch. 1, § 35; 2006, ch. 803, § 1; 2008, ch. 965, § 2; 2009, ch. 556, § 23.

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**Document:** Tenn. Code Ann. § 12-4-106[< Previous](#)[Next >](#)**Tenn. Code Ann. § 12-4-106****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 12 Public Property, Printing And Contracts](#) [Chapter 4 Public Contracts](#) [Part 1 General Provisions](#)

12-4-106. Prohibition against receiving rebates, gifts, money or anything of value -- Conflicts of interest.

(a) No officer or employee of the central procurement office, nor any member of the procurement commission, nor any head of any state department, institution or agency, nor any employee of any state department, institution or agency charged with the responsibility of initiating requisitions, shall accept or receive, directly or indirectly, from any person, firm or corporation to whom any contract for the purchase of goods or services for the state may be awarded, by rebate, gifts, or otherwise, any money or anything of value whatsoever, or any promise, obligation, or contract for future rewards or compensation.

(b)

(1) It is a conflict of interest for any person or any company with whom such person is an officer, a director, or an equity owner having an ownership interest greater than one percent (1%) to bid on any public contract for goods or services for a governmental entity if such person or the immediate family member of such person is a member of a board or commission having responsibility for letting or approving such contract.

(2) As used in this subsection (b):

(A) "Governmental entity" means any state agency, authority, board, commission, department, or office within the executive, legislative or judicial branch of state government or any autonomous state agency, authority, board, commission, department, office, or institution of higher education; and

(B) "Immediate family" means spouse, dependent children or stepchildren, or relatives related by blood or marriage.

History

**Document:** Tenn. Code Ann. § 12-4-114[< Previous](#)[Next >](#)**Tenn. Code Ann. § 12-4-114****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 12 Public Property, Printing And Contracts](#) [Chapter 4 Public Contracts](#) [Part 1 General Provisions](#)

12-4-114. No conflict of interest allowed.**(a)**

(1) No public officer or employee who is involved in making or administering a contract on behalf of a public agency may derive a direct benefit from the contract except as provided in this section, or as otherwise allowed by law.

(2) No public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

(A) The employee is contemporaneously employed by a respondent to a solicitation or contractor involved in the procurement transaction;

(B) The employee, the employee's spouse, or any member of the employee's immediate family holds a position with a respondent to a solicitation, a contractor involved in the procurement transaction, such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent (5%);

(C) The employee, the employee's spouse, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

(D) The employee, the employee's spouse, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a respondent to a solicitation or contractor involved in the procurement transaction.

(3) A public officer or employee who will derive a direct benefit from a contract with the public agency the officer or employee serves, but who is not involved in making or administering the contract, shall not attempt to influence any other person who is involved in making or administering the contract.

(4) No public officer or employee may solicit or receive any gift, reward, or promise of reward in exchange for recommending, influencing, or attempting to influence the award of a contract by the public agency the officer or employee serves.

**Document:** Tenn. Code Ann. § 2-12-116[< Previous](#)[Next >](#)**Tenn. Code Ann. § 2-12-116****Copy Citation**

Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 2 Elections](#) [Chapter 12 County Election Commissions](#) [Part 1 General Provisions](#)

2-12-116. Duty to promote voter registration and the electoral process.

The county election commission shall promulgate such policies as 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. These duties shall include the following:

- (1) The commission shall appoint an administrator of elections, who shall be the chief administrative officer of the commission and shall be responsible for the daily operations of the commission office and the execution of all elections. After May 31, 1993, any administrator appointed at large for the first time to such position shall possess a high school education or GED(R). In evaluating a prospective appointee, the commission shall consider the knowledge and experience of such prospective appointee in the following areas: administrative, managerial, instructional, communication, budgetarial, purchasing, promotional, legal and general office skills and other related skills necessary to fulfill the statutory requirements of administrator;
- (2) Upon the recommendation of the administrator, the commission shall approve an annual budget for the operation of the election commission;
- (3) Upon the recommendation of the administrator, the commission shall be responsible for approving any voting equipment to be purchased by the county for use by the commission;
- (4) Upon the recommendation of the administrator, hire legal counsel if necessary to conduct the business of the commission;
- (5) The commission shall appoint voting machine technicians as required in § 2-9-103. A voting machine technician shall work under the direction of the administrator;
- (6) The commission shall certify all voting machines prior to each election and shall canvass all voting machines after each election;

- (7) The commission shall assist the administrator in designating polling places, precinct boundaries and, in conjunction with the primary boards and the administrator, shall assist in obtaining and appointing poll workers as needed for each election;
- (8) The commission shall be responsible for locking or sealing all absentee ballot boxes and shall retain possession of the keys for such boxes;
- (9) The commission members shall be available to assist election commission personnel upon request throughout each election day;
- (10) The commission may act as the central absentee counting board if the total number of absentee ballots to be counted is fewer than one hundred (100);
- (11) The commission shall be responsible for certifying the results of each election in regard to official tabulations and shall be responsible for certifying all expenses incurred in regard to the commission's responsibility in the performance of its duties for a presidential preference primary or a special election for the sole purpose of selecting a member of the general assembly;
- (12) The commission shall be responsible for the keeping and writing of the minutes of all commission meetings;
- (13) The commission shall be responsible for determining a uniform time for the opening of the polls;
- (14) The commission members shall not request, except in the event of an emergency, that the administrator employ members of the county election commission, their spouses, parents, brothers, sisters or children, including in-laws, of commission members as clerical assistants, absentee voting deputies, poll officials or as a member of the absentee counting board;
- (15) The commission shall be responsible for maintaining the security of the election commission office and any other rooms or facilities it may use in the performance of its duties, including all locks and keys. The commission may delegate this responsibility to the administrator; and
- (16) The commission members shall not appoint or hire, except in the event of and during an emergency, spouses, parents, brothers, sisters, or children, including in-laws, of the administrator as deputies, clerical assistants, absentee voting deputies, machine technicians, poll officials, or as members of the absentee counting board.

History

Acts 1993, ch. 518, §§ 1, 21; 1994, ch. 859, § 10; 1997, ch. 558, § 17; 2011, ch. 236, § 1; 2013, ch. 268, §§ 1, 6.

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Statutes and Legislation (1)



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1. **2-2-126. Keeping of original and duplicate registration records.**

TN - Tennessee Code Annotated | Tenn. Code Ann. § 2-2-126

[Title 2 Elections](#) > [Chapter 2 Voter Registration](#) > [Part 1 Registration by Election Commissions](#)

(a) Once the person is registered, the administrator of elections shall file the original permanent registration record alphabetically in the master file of all the registered voters in the county. (b) The coordinator of elections shall devise a method to be followed for the filing and preservation of postal card registrations and computerized duplicate registration records in any county utilizing a computerized voter registration system. ...

... [Tenn. Code Ann. § 2-2-126](#) **2-2-126 . Keeping of original and duplicate registration records.** (a) Once the ...



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Current through the 2018 Regular Session.

[Tennessee Code Annotated](#) [Title 2 Elections](#) [Chapter 2 Voter Registration](#) [Part 1 Registration by Election Commissions](#)

**2-2-127. Permanent registration records open to inspection -
- Social security number redaction and use.**

(a) Permanent registration records as public records shall be kept in a safe place by the commission, shall be available for public inspection, and may not be removed from the office of the commission except as required for the performance of duties under this title or in compliance with court orders; provided, that a registrar shall make a reasonable effort to redact a person's social security number from a record before such record is made available to any person other than the holder of the number if such record is stored in a computer readable format on April 12, 1999. When such records are first stored in computer readable format or when changes are made to any computer program that stores or accesses records, a registrar shall redact a person's social security number from a record before such record is made available to any person other than the holder of the number. The coordinator of elections shall also redact the social security number before making any voter registration records available to the public.

(b) Nothing in subsection (a) shall be construed to prohibit an agency of a state, county, or municipal office from using a person's social security number for internal purposes or to prohibit a county election commission and its staff from using a person's social security number for enforcement of the election law as provided in this title, and nothing in subsection (a) shall be construed to limit the public's access to that record.

History

Acts 1972, ch. 740, § 1; T.C.A., § 2-2-227; Acts 1999, ch. 88, §§ 1, 2.

Statutes and Legislation (1)



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[Tennessee Code Annotated](#) > [Title 2 Elections](#) > [Chapter 12 County Election Commissions](#) > [Part 1 General Provisions](#)

1. [2-12-101. Commissioners -- Appointment -- Removal -- Legal representation.](#)

TN - Tennessee Code Annotated | [Tenn. Code Ann. § 2-12-101](#)

[Title 2 Elections](#) > [Chapter 12 County Election Commissions](#) > [Part 1 General Provisions](#)

(a) The state election commission shall appoint, on the first Monday in April of each odd-numbered year, five (5) election commissioners for each county, for terms of two (2) years and until their successors are appointed and qualified. The five (5) commissioners shall be the county election commission. (b) The state election commission shall remove a commissioner who becomes unqualified and may remove or otherwise discipline a commissioner for cause. (c) County election commissions shall be represented in legal proceedings as follows: (1) If the legal proceeding names the county election commissioners as defendants and the ...

... [Tenn. Code Ann. § 2-12-101](#) [2-12-101 . Commissioners -- Appointment -- Removal -- Legal representation.](#) (a) The ...



and nays, and the names of all the members voting for or against the bill shall be entered upon the journals of their respective Houses.

If the governor shall fail to return any bill with his objections in writing within ten calendar days (Sundays excepted) after it shall have been presented to him, the same shall become a law without his signature. If the General Assembly by its adjournment prevents the return of any bill within said ten-day period, the bill shall become a law, unless disapproved by the governor and filed by him with his objections in writing in the office of the secretary of state within said ten-day period.

Every joint resolution or order (except on question of adjournment and proposals of specific amendments to the Constitution) shall likewise be presented to the governor for his signature, and on being disapproved by him shall in like manner, be returned with his objections; and the same before it shall take effect shall be repassed by a majority of all the members elected to both houses in the manner and according to the rules prescribed in case of a bill.

The governor may reduce or disapprove the sum of money appropriated by any one or more items or parts of items in any bill appropriating money, while approving other portions of the bill. The portions so approved shall become law, and the items or parts of items disapproved or reduced shall be void to the extent that they have been disapproved or reduced unless repassed as hereinafter provided. The governor, within ten calendar days (Sundays excepted) after the bill shall have been presented to him, shall report the items or parts of items disapproved or reduced with his objections in writing to the House in which the bill originated, or if the General Assembly shall have adjourned, to the office of the secretary of state. Any such items or parts of items so disapproved or reduced shall be restored to the bill in the original amount and become law if repassed by the General Assembly according to the rules and limitations prescribed for the passage of other bills over the executive veto.

ARTICLE IV.

Elections.

Section 1. Every person, being eighteen years of age, being a citizen of the United States, being a resident of the state for a period of time as prescribed by the General Assembly, and being duly registered in the county of residence for a period of time prior to the day of any election as prescribed by the General Assembly, shall be entitled to vote in all federal, state, and local elections held in the county or district in which such person resides. All such requirements shall be equal and uniform across the state, and there shall be no other qualification attached to the right of suffrage.

The General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot box.

All male citizens of this state shall be subject to the performance of military duty, as may be prescribed by law.

Section 2. Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.

Section 3. Electors shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest or summons, during their attendance at elections and in going to and returning from them.

Section 4. In all elections to be made by the General Assembly, the members thereof shall vote viva voce, and their votes shall be entered on the journal. All other elections shall be by ballot.

ARTICLE V.

Impeachments.

Section 1. The House of Representatives shall have the sole power of impeachment.

Section 2. All impeachments shall be tried by the Senate. When sitting for that purpose the senators shall be upon oath or affirmation, and the chief justice of the Supreme Court, or if he be on trial, the senior associate judge, shall preside over them. No person shall be convicted without the concurrence of two-thirds of the senators sworn to try the officer impeached.

Section 3. The House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute impeachments. No impeachment shall be tried until the Legislature shall have adjourned *sine die*, when the Senate shall proceed to try such impeachment.

Section 4. The governor, judges of the Supreme Court, judges of the inferior courts, chancellors, attorneys for the state, treasurer, comptroller, and secretary of state, shall be liable to impeachment, whenever they may, in the opinion of the House of Representatives, commit any crime in their official capacity which may require disqualification but judgment shall only extend to removal from office, and disqualification to fill any office thereafter. The party shall, nevertheless, be liable to indictment, trial, judgment and punishment according to law. The Legislature now has, and shall continue to have, power to relieve from the penalties imposed, any person disqualified from holding office by the judgment of a Court of Impeachment.

Section 5. Justices of the peace, and other civil officers not herein before mentioned, for crimes or misdemeanors in office, shall be liable to indictment in such courts as the Legislature may direct; and upon conviction, shall be removed from office by said court, as if found guilty on impeachment; and shall be subject to such other punishment as may be prescribed by law.

ARTICLE VI.

Judicial Department.

Section 1. The judicial power of this state shall be vested in one Supreme Court and in such Circuit, Chancery and other Inferior Courts as the Legislature shall from time to time, ordain and establish; in the judges thereof, and in justices of the peace. The Legislature may also vest such jurisdiction in Corporation Courts as may be deemed necessary. Courts to be holden by justices of the peace may also be established.

Section 2. The Supreme Court shall consist of five judges, of whom not more than two shall reside in any one of the grand divisions of the state. The judges shall designate one of their own number who shall preside as chief justice. The concurrence of three of the judges shall in every case be necessary to a decision. The jurisdiction of this court shall be appellate only, under such restrictions and regulations as may from time to time be prescribed by law; but it may possess such other jurisdiction as is now conferred by law on the present Supreme Court. Said court shall be held at Knoxville, Nashville and Jackson.

9 Beeler 398
Supreme Court of Tennessee.

MOONEY et al.

v.

PHILLIPS et al.

July 2, 1938.

Synopsis

Appeal from Chancery Court, Davidson County; James B. Newman, Judge.

Bill by G. G. Mooney and another against George W. Phillips and others to determine the validity of an act permitting the use of voting machines, and a resolution of the county court of Davidson county, which was passed in pursuance of the act. From a decree eliding one section of the act and upholding the remainder, and holding the county resolution invalid, all parties appeal.

Decree modified and affirmed.

West Headnotes (9)

[1] **Election Law** 🗳️ Purpose and construction in general

The primary object of the constitutional provision that voting shall be by ballot is to insure secrecy to the voter. Const. art. 4, § 4.

1 Cases that cite this headnote

[2] **Election Law** 🗳️ Use of Voting Machines

The act permitting the use of voting machines is constitutional and does not violate constitutional provision that voting shall be by ballot. Pub.Acts 1937, c. 159; Const. art. 4, § 4.

3 Cases that cite this headnote

[3] **Election Law** 🗳️ Mode of voting

The Legislature has authority to provide different methods of exercising the electric franchise in different portions of the same county. Const. art. 11, § 9.

2 Cases that cite this headnote

[4] **Election Law** 🗳️ Use of Voting Machines

The Legislature has power to enact that voting machines be used in particular districts of certain counties. Pub.Acts 1937, c. 159, § 3.

Cases that cite this headnote

[5] **Constitutional Law** 🏠 Counties and county employees and officials

Election Law 🗳️ Use of Voting Machines

The delegation of authority by the Legislature to the county courts to install voting machines in precincts determined by the courts was not invalid. Pub.Acts 1937, c. 159; Const. art. 11, § 9.

Cases that cite this headnote

[6] **Election Law** 🗳️ Use of Voting Machines

The Legislature had power to authorize a trial adoption of voting machines by county courts. Pub.Acts 1937, c. 159; Const. art. 11, § 9.

Cases that cite this headnote

[7] **Election Law** 🗳️ Use of Voting Machines

Where three different county elections were to be held on same date, and voting machines were so constructed that three elections could be held on one of them, each independent of the other, it was proper to hold the three elections on the same machine. Pub.Acts 1937, c. 159.

Cases that cite this headnote

[8] **Election Law** 🗳️ Appointment and Tenure of Officers

Public Employment 🗳️ Election or appointment

Where general election, Democratic primary and Republican primary were all to be held on same day, on voting machines, the judges to officiate in the general election were to be appointed by the county election commissioners, the judges to officiate in the two primary elections were to be appointed by the two county primary boards, and each of the three authorities were to appoint three judges and one additional judge to attend each voting machine, so that three judges attended each voting machine, one for each election being conducted. Code 1932, § 1977; Pub.Acts 1937, c. 159, §§ 12, 17.

Cases that cite this headnote

[9] **Election Law** 🗳️ Use of Voting Machines

Where county election was to be held on voting machines, the duty of the committee of the county court named as custodian of the machines respecting delivery of the machines merely required delivery of the machines at the polling places appointed by the county court. Code 1932, § 1943 et seq., and § 2181; Pub.Acts 1937, c. 159, § 9.

Cases that cite this headnote

Attorneys and Law Firms

*225 Elkin Garfinkle, of Nashville, for appellants.

Edwin F. Hunt, Asst. Atty. Gen., and Horace Osment, McLane & Taylor, and Jordan Stokes, Jr., all of Nashville, for appellees.

Opinion

GREEN, Chief Justice.

The bill herein was filed by two citizens and qualified voters of Davidson County against the Davidson County Board of Election Commissioners, the Davidson County Democratic Primary Election Commissioners, the Davidson County Republican Primary Election Commissioners, and several gentlemen appointed as a committee by the Davidson County Court to supervise the installation of voting machines in said county, and against Roy H. Beeler, Attorney General.

The complainants averred that chapter 159 of the Acts of 1937 permitting the use of voting machines and a certain resolution of the County Court of Davidson County passed in pursuance of that Act were unconstitutional. The defendants by appropriate pleadings denied the invalidity of the Act and of the resolution. All parties asked for a construction of certain portions of the Act if valid. The chancellor elided one section of the statute, upholding the remainder. He was of opinion that the resolution of the county court was invalid. He was of further opinion that, in view of the elision of the particular section of the statute made by him, there was no present occasion for a declaration construing the Act. All parties have appealed.

The title and first three sections of chapter 159 of the Acts of 1937 are as follows:

"An Act to permit the use of voting machines in all elections in Tennessee: to prescribe the equipment and ballots to be used and the manner of holding elections wherein such voting machines have been adopted.

"Section 1. *Be it enacted by the General Assembly of the State of Tennessee—Specifications of Voting Machine*—That a Voting Machine to be used in Tennessee must be so constructed as to provide facilities for voting for candidates at both primary and general elections or at a nonpartisan election and also at a combination of a non-partisan and partisan primary or general election. It must permit a voter to vote for any person for any office whether or not nominated as a candidate by a party or organization. It must insure voting in absolute secrecy. It must permit a voter to vote for any candidate or on any special measure for whom or on which he is lawfully entitled to vote but none other. It must permit a voter to vote for the proper number of candidates for an office but no more. It must prevent the voter from voting for the same person twice. It must be provided with a lock or locks by which immediately after the polls are closed any movement of the voting or registering mechanism can be absolutely prevented.

"Sec. 2. *Be it further enacted—Adoption of Voting Machines*—That the governing body of any city or town, or the quarterly county court of any county, may adopt, for use at elections, any kind of voting machine meeting with the requirements of Section 1; and upon said adoption being made, notice thereof shall be published in some paper of general circulation in the city, town or county adopting said machine; and thereupon such voting machine may be used at any or all election held therein or any part thereof, for voting, registering, and counting votes cast at such elections.

"Sec. 3. *Be it further enacted—Experimental Use of Voting Machine*—That the governing body of any city, county, or town may provide for the experimental use of voting machines in one or more precincts without a formal adoption thereof; and the use of said voting machines at such election shall be as valid for all purposes as if the machines had been permanently adopted."

The Act contains thirty-two sections and such references will be hereafter made to the remaining portions of the statute as the questions presented require.

*226 The only substantial question raised about the constitutionality of the Act as a whole is as to whether it is in violation of Section 4 of Article 4 of the Constitution providing that all elections save those made by the General Assembly "shall be by ballot."

This seems no longer an open question in the courts of the United States. The courts of all the States in which the machines have been adopted have approved their use, with the exception of the Massachusetts court, and the constitutions of all these States have a requirement like ours that popular elections shall be by ballot.

Some attempt has been made to distinguish the Massachusetts case, *Nichols v. Election Commissioners*, 196 Mass. 410, 82 N.E. 50, 12 L.R.A., N.S., 280, 124 Am.St.Rep. 568. At any rate the decision is out of line.

Statutes authorizing the use of voting machines have been held constitutional in *Lynch v. Malley*, 215 Ill. 574, 74 N.E. 723, 2 Ann.Cas. 837; *Spickerman v. Goddard*, 182 Ind. 523, 107 N.E. 2, L.R.A. 1915C, 513; *U. S. Standard Voting Machine Co. v. Hobson*, 132 Iowa 38, 109 N.W. 458, 7 L.R.A., N.S., 512, 119 Am.St.Rep. 539, 10 Ann.Cas. 972; *Detroit v. Inspectors of Election*, 139 Mich. 548, 102 N.W. 1029, 69 L.R.A. 184, 111 Am.St.Rep. 430, 5 Ann.Cas. 861; *Elwell v. Comstock*, 99 Minn. 261, 109 N.W. 113, 698, 7 L.R.A., N.S., 621, 9 Ann.Cas. 270; *People ex rel. Deister v. Wintermute*, 194 N.Y. 99, 86 N.E. 818; *State ex rel. Fenner v. Keating*, 53 Mont. 371, 163 P. 1156; *State ex rel. Automatic Registering Machine Co. v. Green*, 121 Ohio St. 301, 168 N.E. 131, 66 A.L.R. 849; *In re McTammany Voting Machine*, 19 R.I. 729, 36 A. 716, 36 L.R.A. 547; *State ex rel. Empire Voting Machine Co. v. Carroll*, 78 Wash. 83, 138 P. 306, and other cases collected in Note, 66 A.L.R. 855.

[1] [2] The reasoning of the cases upholding this legislation is that the prime object of constitutional provisions that voting shall be by ballot is to insure secrecy to the voter in expressing his choice as between candidates. It is reasoned that the word "ballot" is not used in a literal sense but merely by way of designating a method of conducting elections that will guarantee the secrecy and integrity of the ballot. Upon these grounds and upon these authorities we conclude that chapter 159 of the Acts of 1937 was a valid and constitutional enactment.

As appears above, section 3 of this Act of 1937 authorizes the governing body of any county to provide for the experimental use of voting machines in one or more precincts without a formal adoption thereof. In accordance with this authority the County Court of Davidson County passed a resolution directing the use of these machines in certain precincts of the county. The chancellor thought this section of the Act invalid and elided it. This, of course, removed all support from the resolution of the county court and it fell.

The argument against the validity of section 3 is based on the premise that the Legislature itself could not have provided for different methods of voting in different districts of the same county and that the Legislature could therefore delegate no such authority to the county court. The stock law cases, *Daniel v. Larsen*, 157 Tenn. 690, 12 S.W.2d 386, and *Pettit v. White County*, 152 Tenn. 660, 280 S.W. 688, are cited for this.

[3] The authority of the Legislature to provide different methods of exercising the elective franchise in different portions of the same county has been too long recognized in this State to be questioned now. Prior to chapter 117 of the Acts of 1921 extending it to the entire State, the Dortch ballot law not only applied to counties of designated population but to cities, towns and civil districts of designated population. Shannon's Code, § 1231 et seq. Voting elsewhere was by the 3x7 ballot with the offices to be filled and the names to be voted for printed on the ballot. Shannon's Code, § 1259. Registration of voters at this time is not only required in counties of a designated population but in cities, towns and civil districts of designated population. § 1996, Code of 1932.

[4] So regardless of the decisions in the stock law cases, we think the power of the Legislature itself to have enacted that voting machines be used in particular districts of certain counties must be granted. Certainly this must be granted if such designations were made on a population basis, and the county court has assigned the machines to the most populous precincts.

[5] We see no particular objection to the delegation of authority to the county courts to install voting machines in precincts to be determined by the courts. There are certain instrumentalities, the use of which is not permissible nor desirable in *227 every locality in the State. So there are certain activities, the pursuit of which should not be everywhere

sanctioned. The Constitution (Article 11, Section 9) provides "The Legislature shall have the right to vest such powers in the courts of justice, with regard to private and local affairs, as may be expedient."

Under this constitutional provision the Legislature has for years delegated to the quarterly county courts the power to establish and supervise ferries; Code, § 10235, *Guinn v. Eaves*, 117 Tenn. 524, 101 S.W. 1154; *Malone v. Williams*, 118 Tenn. 390, 432, 103 S.W. 798, 121 Am.St.Rep. 1002; to lay out and change roads; *Franklin Turnpike Co. v. County Court of Maury*, 27 Tenn. 342, 8 Humph. 342; *Hawkins v. Trousdale County*, 80 Tenn. 351, 12 Lea 351; *White's Creek Turnpike Co. v. Davidson County*, 82 Tenn. 73, 14 Lea 73; *Turnpike Co. v. Davidson County*, 91 Tenn. 291, 18 S.W. 626; to control bridges; *Ledbetter v. Turnpike Co.*, 110 Tenn. 92, 73 S.W. 117.

More recently the Legislature has given to the county courts the power, within limits, to determine the places at which beer dealers may do business. Chapter 69, Acts of 1933, sustained in *Wright v. State*, 171 Tenn. 628, 106 S.W.2d 866.

[6] It is therefore competent for the Legislature to leave the matter of the location of voting machines to the county courts just as it leaves to those bodies the matter of the location of ferries, roads, bridges and beer dealers. The local authority is of course in a better position to determine where these machines will be of most service. The Legislature has, by chapter 159 of the Acts of 1937, authorized the use of voting machines in such counties as desire to acquire them and has merely left to the county courts the location of these authorized instrumentalities. Since the Legislature is empowered to authorize the permanent adoption of voting machines by county courts, clearly the Legislature could authorize a trial adoption of the machines or an adoption of the machines for a briefer period.

The court is asked in the event the Act is held constitutional to make a declaration as to whether all three of the elections to be held on August 4, 1938, the general election, the Democratic primary and Republican primary, can be held on the same machine.

[7] We see no objection to this in view of the statements that the machines are so constructed that three elections can be held on one of them, each election independent of the other.

The court is also asked for a declaration as to the judges of these elections in view of the provisions of section 12 of the Act. That section provides that "In precincts where voting machines are used four election officials shall be appointed, provided that in precincts wherein two voting machines are required five election officials shall be appointed and that in precincts wherein three voting machines are required six election officials shall be appointed for each such precincts."

Section 17 of the statute provides "That one judge shall attend the voting machine, the other officers shall attend the poll books and shall perform the usual duties of election officials as provided by law."

[8] It is apparent from the foregoing that it was the intention of the statute to have one judge attend each machine used in every precinct and three other judges to attend the poll books and perform the other usual duties. Judges to officiate in the general election will be appointed by the Davidson County Election Commissioners. Code, § 1977. And judges to officiate in the two primary elections will be appointed by the two county primary boards. Each of these three authorities, under chapter 159 of the Acts of 1937 will appoint one additional judge to attend each voting machine. Three judges should attend each voting machine when it is used in three elections, one for each election being conducted.

[9] The court is also asked to declare the duty of the committee of the county court named as custodian of the machines with respect to whom said machines shall be delivered for holding the elections on August 4, 1938. The places of holding elections are fixed by the county courts. Code, § 1943 et seq. The legalized primary elections are held at the same places. Code, § 2181. By section 9 of the Act of 1937 it is made the duty of the custodian after the machines have been prepared for election to cause the same to be delivered at each of the polling places where they are to be used at least twelve hours before the time set for the opening of the polls. When the custodian *228 has delivered these machines at the polling places appointed by the county court, it seems that his statutory duty respecting delivery of the machines is ended.

The chancellor's decree is affirmed with the foregoing modification and declaration.

The use of these machines being new and the statute regulating their use being quite elaborate, doubtless other questions will arise. These matters must be determined by the proper officials as they come up. Even should the court hereafter disagree with some construction of the statute made by election officials, the court would be very slow to interfere with the result of any election honestly conducted by the use of these machines.

All Citations

9 Beeler 398, 173 Tenn. 398, 118 S.W.2d 224

End of Document

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OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TENNESSEE
1996 Tenn. AG LEXIS 17
96-027
February 28, 1996

Request By: CHARLES W. BURSON, Attorney General and Reporter (MICHAEL E. MOORE, Solicitor General; KEVIN STEILING, Assistant Attorney General)

Opinion

QUESTION

Does the Public Records Act require turning over voter registration records under circumstances where disclosure would reveal the way in which a specific voter voted?

ANALYSIS

This question presents a conflict between the Tennessee Public Records Act¹ and the constitutional right of every Tennessee citizen to cast a secret ballot. The question arises from post-election litigation regarding a lost ballot. Evidence presented at a hearing disclosed that (1) there was one "fail safe"² voter in a particular district and (2) that voter was the fourth voter in the ballot box for that district. In addition, the evidence at the hearing identified the candidate for whom the vote was cast. Disclosure of the "fail safe" voters in that district would therefore reveal both this voter's identity and the way in which the voter voted. The question thus arose as to whether, in order to insure the anonymity of this voter, the list of "fail safe" voters could be kept confidential.

The Public Records Act, Tenn. Code Ann. 10-7-101, *et seq.*, allows for public inspection of a broad range of state, county and municipal records. Section 10-7-301(6) of the Act defines public records to include virtually every record maintained, received or created by a public body:

(6) 'Public record(s)' or "state record(s)" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sounds recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

Section 10-7-503(a) of the Act, which sets forth the general rule of openness, states that state, county and municipal records are open for public inspection "unless otherwise provided by state law." A number of exceptions to the Public Records Act are explicitly

provided for in the Public Records Act itself.³ Other exceptions to the Act may be found in statutes pertaining to a particular agency or governmental body.⁴ A third category, of exceptions, however, derives from the recognition of constitutional rights with which every citizen is vested.

Neither the United States Constitution nor the Tennessee Constitution contains any specific provision which explicitly guarantees to each voter the right to a secret ballot. Article IV, Section 4 of the Tennessee Constitution, however, does provide that all elections except elections made by the general assembly "shall be by ballot." This provision has been interpreted by the Tennessee Supreme Court as requiring secrecy of ballot. In *Mooney v. Phillips*⁵ the Court, in upholding the constitutionality of voting machines, stated that "the word 'ballot' is not used in a literal sense but merely by way of designating a method of conducting elections that will guarantee the secrecy and integrity of the ballot."⁶ The right to a secret ballot is therefore of constitutional dimension in Tennessee.⁷ Moreover, the United States Supreme Court, in *Burson v. Freeman*,⁸ held that the State of Tennessee has a compelling interest in insuring that elections are conducted with integrity and reliability, and in protecting voters from confusion and undue influence. Secrecy of the ballot is a vital component of preserving the integrity of elections. As noted by the Supreme Court in *Burson v. Freeman*, the failure of the law to secure secrecy opens the door to bribery and intimidation.⁹

In addition, the Tennessee legislature's concern with protecting the secrecy of the ballot is evident in numerous provisions of the state election laws. Statute after statute demonstrates the intent to preserve the secrecy of the ballot. Tenn. Code Ann. 2-1-102(1) , for example, which appears at the beginning of the title of the Tennessee Code governing elections, states that one of the four purposes of that title is to "regulate the conduct of all elections by the people so that the freedom and purity of the ballot are secured." This reference to "purity of the ballot" echoes the first Tennessee election legislation to guarantee secrecy of the ballot,¹⁰ whose aim was to secure "the purity of elections."

Other examples include Tenn. Code Ann. 2-6-109(e) , which requires county election commissions to provide early voters "a booth where the voter may mark the ballot in complete secrecy and privacy" (failure to do so constitutes a Class C misdemeanor). Similarly, absentee voters must sign an affidavit to accompany the absentee ballot, swearing that the ballot has been "marked by me in secret. . . ."¹¹ And it is the duty of each "officer of elections" who supervises a polling place to "assure that voting machines and voting compartments are arranged in such a way that the secrecy of the ballot is preserved. . . ."¹²

Consequently, the constitutional right to a secret ballot clearly falls within the "unless otherwise provided by state law" exception to the Public Records Act. The Public Records Act therefore does not require the release of a voter's name under circumstances that would also destroy the secrecy of that voter's ballot.

Requested by: Representative Roy B. Herron, 32 Legislative Plaza, Nashville, TN 37243-0176

Footnotes

Footnotes for Opinion

1 In addition, Tenn. Code Ann. 2-2-127 independently requires that all voter registration records be open to public inspection.

2 A "fail safe" voter is one who has either (1) failed to respond to an address confirmation notice from the county election commission, or (2) changed residences, but who is still entitled to vote within the same registrar's jurisdiction. The National Voter Registration Act, 42 U.S.C. 1973gg-6 (d), (e) and (f), provides that such a voter must still be allowed to vote, and may not be removed from the list of eligible voters, notwithstanding the failure to notify the registrar of a change of address.

3 See, e.g., Tenn. Code Ann. 7-10-504, which lists a number of records whose confidentiality is preserved, including medical records of patients in state, county and municipal hospitals, investigative records of the TBI and records of students in public educational facilities.

4 For example, Tenn. Code Ann. 40-28-119, regarding records of parolees, provides that the Tennessee Board of Paroles "may make rules, as it deems proper, as to the privacy of such records and of the records of its employment bureau, and their use by others than the board and its staff."

5 173 Tenn. 398, 118 S.W.2d 224 (1938).

6 *Id.*, 173 Tenn. at 403, 118 S.W.2d at 226.

7 See also, Op. Tenn. Atty. Gen. 83-353 (July 20, 1983).

8 U.S., 112 S. Ct. 1846, 119 L. Ed. 2d 5 (1992), rejecting a constitutional challenge to the Tennessee law (Tenn. Code Ann. 2-7-111) establishing an election-day "campaign-free zone" 100 feet from the entrance to a polling place. The Court discussed at length the history of elections in the United States and chronicled the efforts of state and local governments to eliminate fraud, bribery and voter intimidation from the electoral process.

9 *Id.*, 112 S. Ct. at 1852.

10 1890 Tenn. Pub. Acts, ch. 24. See also, *Burson v. Freeman, supra*, 112 S. Ct. at 1854.

11 Tenn. Code Ann. 2-6-309(b).

12 Tenn. Code Ann. 2-7-101(b)(2).

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Memorandum

To: All County Election Commissions
From: State Election Commission
Re: Policy Regarding Voting in Primary Elections
Dated: May 11, 2015

The below listed policy is being sent to all county election commissioners and Administrators of Elections. Please make sure each of your commission members are aware of the specific laws which the State Election Commission based their policy.

POLICY:

The State Election Commission met on July 14, 2014, and reviewed a complaint regarding a county election commissioner voting in the opposite party primary in May. The State Election Commission considered removal of the commissioner but ended up censuring the county election commissioner. At their meeting the State Election Commission requested our office to notify all county election commissioners of the statute which requires election commission members to represent our two statewide political parties.

Specifically, TCA § 2-12-103 (b)(1) and (2) states, the "state election commission shall appoint the persons who are required to be members of that party on county election commissions." The legal requirements for voting in a primary are found in TCA § 2-7-115 (b) which states the following:

A registered voter is entitled to vote in a primary election for offices for which the voter is qualified to vote at the polling place where the voter is registered if:

- (1) The voter is a bona fide member of and affiliated with the political party in whose primary the voter seeks to vote; or
- (2) At the time the voter seeks to vote, the voter declares allegiance to the political party in whose primary the voter seeks to vote and states that the voter intends to affiliate with that party.

To enforce the requirement that county election commission members represent their political party, the SEC adopted the following policy:

While serving on the county election commission a county election commission member should not vote in a primary of the opposite party which they represent. If a county election commissioner plans on doing so they should resign prior to voting or they will be subject to removal by the State Election Commission.

The policy simply is about making sure county election commissioners know and understand the law.

PROCEDURES FOR CERTIFYING VOTING MACHINES BY THE TENNESSEE STATE ELECTION COMMISSION

All voting machines/vendors must receive certification from the state election commission and the coordinator of elections before any voting machines or systems may be sold in the State of Tennessee.

First Step:

Any interested vendor should submit a written request to the coordinator of elections and the state election commission requesting certification of your company together with the EAC certification number, a financial report and a list of all states that have already bought your voting machines or systems. If you would like to demonstrate your product at a meeting of the state election commission, please make that request in your letter. You will be notified of the date, time, and place of the meeting where you may make your presentation.

Second Step:

A. Voting Machine Procedure

Following verification of EAC certification and an initial presentation of your product and/or services, you would need to arrange for at least two (2) State Election Commissioners (of opposite parties) and the coordinator of elections (or designee) to view your machines or system in use in an election of a substantial size in another state. An election of a substantial size involves at the minimum the following characteristics:

- The jurisdiction has a population of at least 10,000 persons;
- The jurisdiction has at least two (2) or more district races on the ballots; and
- There are at least two (2) contested races involving both at large and district races on the ballot.

B. Voting Machine Software or Hardware Upgrade

- EAC Certification;
- Presentation of upgrade before State Election Commission at a meeting; and
- Viewing of upgrade in another state (In lieu of viewing machine in another state, at the discretion of the State Election Commission, letters of recommendation from users in other jurisdiction may be used as support for approval.)

C. De Minimis Voting System Changes

- Any De Minimis change to an EAC certified voting system shall be submitted to the state election commission and coordinator of elections to be approved. For purposes of approval of the de minimis change to the voting system, all that will be required is a letter from the EAC stating the change is de minimis, unless further information is requested by the state election commission or coordinator of elections.

Third Step:

The State Election Commission must vote to certify the machine in order for the machines to be used in an election in Tennessee.

You may send any correspondence for both the state election commission and the coordinator of elections to the following address:

312 Rosa L. Parks Avenue, 7th Floor
William R. Snodgrass Tower
Nashville, Tennessee 37243
(615) 741-7956

If you have any further questions regarding certification of your company, please feel free to contact the office of the state election coordinator at the phone number listed above.

Hart

Hart InterCivic – Verity 2.3 - Verity Touch Writer and Touch Writer Duo

December 3, 2019

Alli Fick – Hart – Certification Project
Manager

- Demonstrated before the State Election Commission was given on April 1, 2019.
- Voting machines were viewed in Daviess County (Owensboro), Ky on November 5, 2019.
 - EAC – Certification Number
HRT-VERITY-2.3



United States Election Assistance Commission



Certificate of Conformance

Hart Verity Voting 2.3

The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the 2005 *Voluntary Voting System Guidelines (2005 VVSG)*. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the *EAC Voting System Testing and Certification Program Manual* and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.

Product Name: Verity Voting

Model or Version: 2.3

Name of VSTL: SLI Compliance

EAC Certification Number: HRT-VERITY-2.3

Date Issued: March 15, 2019

Executive Director
U.S. Election Assistance Commission

Scope of Certification Attached

Manufacturer: Hart InterCivic
System Name: Verity Voting 2.3
Certificate: HRT-Verity-2.3

Laboratory: SLI Compliance
Standard: 2005 VVSG
Date: 3/14/2019



Scope of Certification

This document describes the scope of the validation and certification of the system defined above. Any use, configuration changes, revision changes, additions or subtractions from the described system are not included in this evaluation.

Significance of EAC Certification

An EAC certification is an official recognition that a voting system (in a specific configuration or configurations) has been tested to and has met an identified set of Federal voting system standards. An EAC certification is **not**:

- An endorsement of a Manufacturer, voting system, or any of the system's components.
- A Federal warranty of the voting system or any of its components.
- A determination that a voting system, when fielded, will be operated in a manner that meets all HAVA requirements.
- A substitute for State or local certification and testing.
- A determination that the system is ready for use in an election.
- A determination that any particular component of a certified system is itself certified for use outside the certified configuration.

Representation of EAC Certification

Manufacturers may not represent or imply that a voting system is certified unless it has received a Certificate of Conformance for that system. Statements regarding EAC certification in brochures, on Web sites, on displays, and in advertising/sales literature must be made solely in reference to specific systems. Any action by a Manufacturer to suggest EAC endorsement of its product or organization is strictly prohibited and may result in a Manufacturer's suspension or other action pursuant to Federal civil and criminal law.

System Overview:

Verity Voting is a comprehensive voting system that includes software and hardware components to support paper-based, electronic, and by-mail voting. These components allow election professionals to accomplish the following high-level tasks:

- Input of election data
- Definition and maintenance of election databases
- Formatting of ballots
- Setup and deployment of voting devices

- Counting of votes
- Consolidation and reporting of results and election audits

Verity Scan is a scanning device (tabulator) that is used in conjunction with an external ballot box. The unit is designed to scan marked paper ballots, interpret and record voter marks on the paper ballot and deposit the ballots into the secure ballot box. Verity Scan is capable of tabulating votes, or producing a ballot count report which includes quantities of ballots scanned.

Verity Touch Writer is a standalone Ballot Marking Device (BMD) which also includes an Audio Tactile Interface (ATI). Touch Writer allows voters who cannot hand-mark a paper ballot to generate a machine-readable and human readable paper ballot, based on vote selections made through the accessible electronic interface.

Verity Touch Writer Duo is a Ballot Marking Device (BMD) which may include a Verity Access Audio Tactile Interface (ATI), has an integrated printer, and is configured for use in a daisy-chained network with Verity Controller. Touch Writer Duo generates a machine-readable and human-readable printed vote record, based on vote selections made through the electronic interface.

Verity Print is an on-demand ballot production device for unmarked paper ballots.

Verity Election Management allows users to manage and import elections. Elections are available through the “Elections” chevron in Verity Build. Users can also delete, archive, restore, and rename the elections.

Verity User Management enables users with the correct role and permissions to create and manage user accounts within the Verity Voting system for the local workstation in a standalone configuration, or for the network in a networked configuration.

Verity Desktop enables users with the correct roles to set the workstations’ date and time, gather Verity software application hash codes (in order to validate the correctness of the installed applications), and access to Windows desktop.

Verity Data provides users capabilities to input jurisdiction- and election-specific data for paper and accessible electronic ballots, as well as audio for accessible electronic ballots. Verity Data also includes capabilities to allow proofing of data, layout, and audio that has been created. Verity Data also performs validation on the entered information to ensure that it is ready for use in Verity Build.

Verity Build allows users to proof data, view reports, create election definitions, print ballots, and create election media (vDrives). Build also allows users to configure settings for Verity Scan digital scanners and Verity Touch Writer BMD devices.

Verity Central is a high-speed, central digital ballot scanning system used for high volume processing of ballots (such as vote by mail). Verity Central is based on COTS scanning hardware coupled with the custom Hart-developed ballot processing application software, which resides on an attached COTS work-station.

Verity Count is an application that tabulates election results and generates reports. Verity Count can also be used to collect and store all election logs from every Verity component/device used in the election, allowing for complete election audit log reviews.

Verity Controller is a polling place device used by the poll worker to monitor the operation and create access codes for Verity Touch, Touch with Access, and Touch Writer Duo systems. Access codes allow each voter to activate a ballot session and cast a vote (or mark a ballot, for Touch Writer Duo) in private. The poll worker uses the Verity Controller to manage up to 12 devices that are connected via a daisy-chain network.

Verity Touch is a Direct Recording Electronic (DRE) device controlled via a touch screen. It is networked to Controllers and other DRE devices via a daisy-chain network. After the voter privately and independently marks and reviews the ballot, that ballot is electronically cast.

Verity Touch with Access is a DRE device identical to the Verity Touch device, except that it adds a Verity Access Audio Tactile Interface (ATI) to provide additional options for accessible voting. Access has three tactile buttons, one audio port, and one port for two-switch adaptive devices (such as "jelly switches" or sip-and-puff devices). Jacks for headphones and adaptive devices are located on the top edge of the ATI device.

Verity AutoBallot is an optional barcode scanning kit for Verity Controller, Verity Print, and Verity Touch Writer that allows air-gapped integration between an e-pollbook check-in process and the task of selecting the proper ballot style for the voting system.

vDrive is a required Verity Voting component, used as a portable media device generated by Verity Build. vDrive allows election definitions to be moved from Verity Build to Verity Controller, Verity Scan, Verity Touch Writer, and Verity Print. vDrive supports the transfer of Cast Vote Records (CVRs) in Verity Controller (DRE configuration), Verity Scan, and Verity Central.

Verity Key is an electronic media that is created by Verity Build for a specific election. Verity Key is the electronic media that provides user authentication and configures election security throughout the Verity voting system.

Certified System before Modification (If applicable):
Verity Voting 2.0

Anomalies and/or Additions addressed in Verity Voting 2.3:
N/A

Mark definition:

System supports marks that cover a minimum of 4% of the rectangular marking area.

Tested Marking Devices:

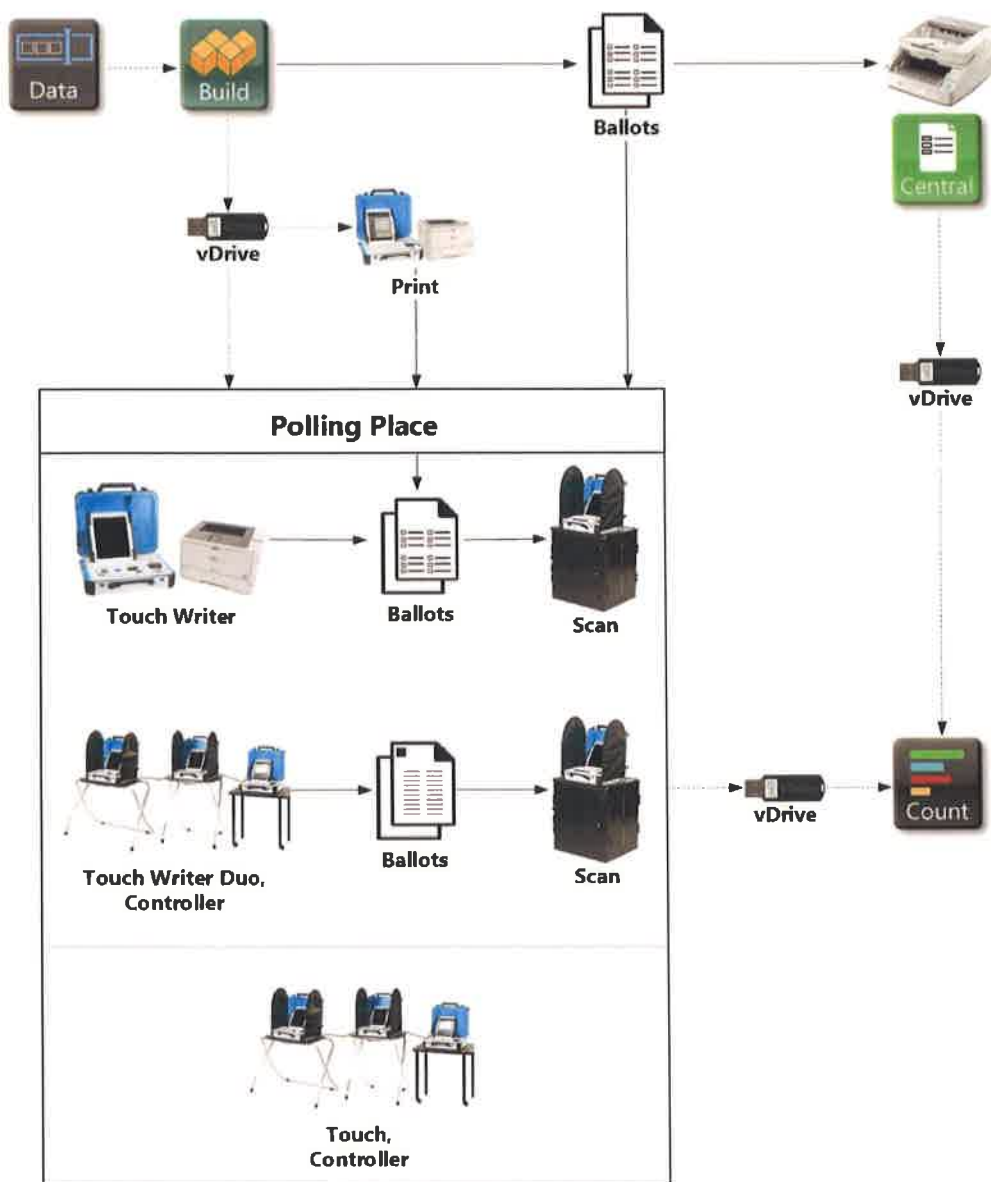
System supports Black and Blue ballpoint pens; testing was performed with black, blue, dark blue, pink, light green, green, orange, and red pens, as well as #2 pencil lead.

Language capability:

System supports English, Spanish, Chinese, Japanese, Korean, Khmer, Thai, Vietnamese, Tagalog, Ilocano, and Hindi.

Components Included:

This section provides information describing the components and revision level of the primary components included in this Certification.



System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
Verity Data	2.3.1			Data management software
Verity Build	2.3.1			Election definition software
Verity Central	2.3.1			High speed digital scanning software
Verity Count	2.3.1			Tabulation and reporting software
Verity Print	2.3.1			On-demand ballot printing device firmware
Verity Scan	2.3.1			Digital scanning device firmware
Verity Touch Writer	2.3.1			Accessible BMD firmware
Verity Touch Writer Duo	2.3.1			Ballot marking device, with internal COTS ballot summary printer and optional audio tactile interface
Verity Controller	2.3.2			Polling place management device
Verity Touch	2.3.1			Direct Recording Electronic (DRE) voting device
Verity Touch with Access	2.3.1			Accessible DRE voting device, with audio tactile interface
Verity Device Microcontroller	V17			Firmware for Verity devices
Verity Touch Writer Duo Microcontroller	V1			Firmware for Verity Touch Writer Duo
Application control – Data/Build, Central, Count, Print, Scan, Touch Writer, Touch Writer Duo, Controller, Touch, Touch w/ Access	6.1.1.369		COTS: McAfee Application Control for Devices	Configured for Verity workstations and devices
Database- Data/Build, Central, Count	11.00.2100		COTS: Microsoft SQL Server 2012 for Embedded Systems	
Database - Print, Scan, Touch Writer, Touch Writer Duo, Controller, Touch, Touch w/ Access	11.00.2100		COTS: Microsoft SQL Server 2012 Express	
Verity Operating System – Data/Build, Central, Count, Print, Scan, Touch Writer, Touch Writer Duo, Controller, Touch,	6.1.7601		Microsoft Operating System	Microsoft Windows Embedded Standard 7 w/ service pack 1 – 64 bit

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
Touch w/ Access				
Verity Scan		Revision H		
Verity Scan – Update for scanner mechanism and tablet electronics obsolescence		Revision A		
Verity Touch Writer		Revision G		
Verity Print		Revision D		
Verity Touch Writer Duo		Revision A		
Verity Controller		Revision D		
Verity Controller – Update for tablet electronics obsolescence		Revision A		
Verity Touch		Revision D		
Verity Touch w/ Access		Revision E		
OKI Data	N22202A		B431d Printer Driver	Data/Build, Central, Count, Print, Touch Writer
OKI Data	N22500A		B432dn Printer Driver	Data/Build, Central, Count, Print, Touch Writer
OKI Data	N35100A		C831dn Printer Driver	Print
TWAIN Working Group	2.0.1		Twacker 32 Scanner Driver	Central
Canon	M111181		DR-G1100 Scanner Driver	Data/Build, Central
Canon	M111171		DR-G1130 Scanner Driver	Data/Build, Central
	1405-8GV3		8-port Ethernet Switch	Data/Build, Central, Count
Vinpower Digital USB Duplicator 7-targets	USBShark-7T-BK			Data/Build
Vinpower Digital USB Duplicator 23-targets	USBShark-23T-BK			Data/Build
Verity Ballot Box	Revision B			Scan
Accessible Voting Booth	Revision D			Touch Writer, Touch Writer Duo, Touch Writer w/ Access
Standard Voting Booth	Revision D			Touch Writer Duo, Touch
Thermal Printer	PJ723		Brother PJ700	Touch Writer Duo
Verity Key		N/A	COTS: Maxim iButton	Security key used with voting system
Verity vDrive		N/A	COTS: Apacer	4GB USB flash drive, portable electronic media used for transportation of voting system data
Ballot/Report Printer		B431d	COTS: OKI Data	

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
– Data/Build, Central, Count, Print, Touch Writer		B432dn		
Ballot Printer – Build, Print		C831dn	COTS: OKI Data	
Scanner – Central		DR-G1100	COTS: Canon	
Scanner – Central		DR-G1130	COTS: Canon	
Workstation – Data, Build, Central, Count			COTS: HP Z240 Workstation; HP Z230 Workstation	Min. Requirements: Processor – Intel Celeron D 420 3.06GHz Dual Core Memory – 2GB Hard Drive – 120 GB Removable Storage – 8xDVD+/- RW Slim line USB Ports – 4 ports Video Card - Integrated Graphics Keyboard - USB Keyboard Mouse - USB Mouse
Monitor – Data, Build, Central, Count			COTS: Monitor	Min. Requirements: Panel Size - 50.8 cm Aspect Ratio - Widescreen (16:9) Optimal Resolution - 1600 x 900 at 60Hz Contrast Ratio - 1000: 1 Brightness - 250 cd/m2 (typical)

System Limitations

This table depicts the limits the system has been tested and certified to meet.

Element	Testing Limit/Requirement Z240 64GB Systems (does not include Data/Build/Count combined system)	Testing Limit/Requirement Z230 32GB Systems (includes Z240 64GB Data/Build/Count combined system)
Precincts	3,000	2,000
Splits per Precinct	20	20
Total Precincts + Splits in an election	3,000	2,000
Districts for voting devices and applications	400	75
Parties in a General Election	24	24
Parties in a Primary Election	10	10
Contests in an election	2,000	200
Choices in a single contest	300	75
Total contest choices (voting positions) in an election	5,000	600
Max length of choice name	100 characters	100 characters

Element	Testing Limit/Requirement Z240 64GB Systems (does not include Data/Build/Count combined system)	Testing Limit/Requirement Z230 32GB Systems (includes Z240 64GB Data/Build/Count combined system)
Max write-in length	25 characters	25 characters
Voting Types	5	5
Max polling places per election	3,050	1,200
Max devices per election	N/A	N/A
vDrive capacity – Scan voting device	9,999 sheets per vDrive	9,999 sheets per vDrive
vDrive capacity – Verity Central	80,000 sheets per vDrive	80,000 sheets per vDrive
Number of voters definable per election	2,500,000	1,000,000
Number of total ballots cast per election	1,750,000	1,000,000
Max number of sheets per ballot	4 sheets	4 sheets
Max number of sheets – Verity Scan	9,999	9,999
Max number of CVRs – Verity County	7,000,000	7,000,000
Ballot Sizes	8.5"x11", 8.5"x14", 8.5"x17", 8.5"x20", 11"x17" (Central only)	8.5"x11", 8.5"x14", 8.5"x17", 8.5"x20", 11"x17" (Central only)
Number of languages in a single election (including English)	11	11

Functionality

2005 VVSG Supported Functionality Declaration

Feature/Characteristic	Yes/No	Comment
Voter Verified Paper Audit Trails		
VVPAT	No	
Accessibility		
Forward Approach	Yes	
Parallel (Side) Approach	Yes	
Closed Primary		
Primary: Closed	Yes	Supports standard closed primary and modified closed primary
Open Primary		
Primary: Open Standard (provide definition of how supported)	Yes	Open Primary
Primary: Open Blanket (provide definition of how supported)	Yes	General "top two"
Partisan & Non-Partisan:		
Partisan & Non-Partisan: Vote for 1 of N race	Yes	
Partisan & Non-Partisan: Multi-member ("vote for N of M") board races	Yes	
Partisan & Non-Partisan: "vote for 1" race with a single candidate and write-in voting	Yes	
Partisan & Non-Partisan "vote for 1" race with no declared candidates and write-in voting	Yes	
Write-In Voting:		

Feature/Characteristic	Yes/No	Comment
Write-in Voting: System default is a voting position identified for write-ins.	No	By default, the number of write-ins available in a contest is zero, users may increment as necessary
Write-in Voting: Without selecting a write in position.	No	
Write-in: With No Declared Candidates	Yes	
Write-in: Identification of write-ins for resolution at central count	Yes	
Primary Presidential Delegation Nominations & Slates:		
Primary Presidential Delegation Nominations: Displayed delegate slates for each presidential party	Yes	
Slate & Group Voting: one selection votes the slate.	Yes	
Ballot Rotation:		
Rotation of Names within an Office; define all supported rotation methods for location on the ballot and vote tabulation/reporting	Yes	Rotation by precinct and precinct split
Straight Party Voting:		
Straight Party: A single selection for partisan races in a general election	Yes	
Straight Party: Vote for each candidate individually	Yes	
Straight Party: Modify straight party selections with crossover votes	Yes	
Straight Party: A race without a candidate for one party	Yes	
Straight Party: "N of M race (where "N">1)	Yes	
Straight Party: Excludes a partisan contest from the straight party selection	Yes	
Cross-Party Endorsement:		
Cross party endorsements, multiple parties endorse one candidate.	No	
Split Precincts:		
Split Precincts: Multiple ballot styles	Yes	
Split Precincts: P & M system support splits with correct contests and ballot identification of each split	Yes	
Split Precincts: DRE matches voter to all applicable races.	Yes	
Split Precincts: Reporting of voter counts (# of voters) to the precinct split level; Reporting of vote totals is to the precinct level	Yes	
Vote N of M:		
Vote for N of M: Counts each selected candidate, if the maximum is not exceeded.	Yes	
Vote for N of M: Invalidates all candidates in an overvote (paper)	Yes	
Recall Issues, with options:		
Recall Issues with Options: Simple Yes/No with separate race/election. (Vote Yes or No Question)	Yes	
Recall Issues with Options: Retain is the first option, Replacement candidate for the second or more options (Vote 1 of M)	Yes	
Recall Issues with Options: Two contests with access to a second contest conditional upon a specific vote in contest one. (Must vote Yes to vote in 2 nd contest.)	Yes	

Feature/Characteristic	Yes/No	Comment
Recall Issues with Options: Two contests with access to a second contest conditional upon any vote in contest one. (Must vote Yes to vote in 2 nd contest.)	Yes	
Cumulative Voting		
Cumulative Voting: Voters are permitted to cast, as many votes as there are seats to be filled for one or more candidates. Voters are not limited to giving only one vote to a candidate. Instead, they can put multiple votes on one or more candidate.	Yes	
Ranked Order Voting		
Ranked Order Voting: Voters can write in a ranked vote.	Yes	
Ranked Order Voting: A ballot stops being counting when all ranked choices have been eliminated	N/A	Tabulation rules are unique per jurisdiction
Ranked Order Voting: A ballot with a skipped rank counts the vote for the next rank.	N/A	Tabulation rules are unique per jurisdiction
Ranked Order Voting: Voters rank candidates in a contest in order of choice. A candidate receiving a majority of the first choice votes wins. If no candidate receives a majority of first choice votes, the last place candidate is deleted, each ballot cast for the deleted candidate counts for the second choice candidate listed on the ballot. The process of eliminating the last place candidate and recounting the ballots continues until one candidate receives a majority of the vote	N/A	Tabulation rules are unique per jurisdiction
Ranked Order Voting: A ballot with two choices ranked the same, stops being counted at the point of two similarly ranked choices.	Yes	
Ranked Order Voting: The total number of votes for two or more candidates with the least votes is less than the votes of the candidate with the next highest number of votes, the candidates with the least votes are eliminated simultaneously and their votes transferred to the next-ranked continuing candidate.	N/A	Tabulation rules are unique per jurisdiction
Provisional or Challenged Ballots		
Provisional/Challenged Ballots: A voted provisional ballots is identified but not included in the tabulation, but can be added in the central count.	Yes	
Provisional/Challenged Ballots: A voted provisional ballots is included in the tabulation, but is identified and can be subtracted in the central count	Yes	
Provisional/Challenged Ballots: Provisional ballots maintain the secrecy of the ballot.	Yes	
Overvotes (must support for specific type of voting system)		
Overvotes: P & M: Overvote invalidates the vote. Define how overvotes are counted.	Yes	If the system detects more than the valid number of marks in a contest, it is counted as an overvote
Overvotes: DRE: Prevented from or requires correction of overvoting.	Yes	



Feature/Characteristic	Yes/No	Comment
Overvotes: If a system does not prevent overvotes, it must count them. Define how overvotes are counted.	Yes	If the system detects more than the valid number of marks in a contest, it is counted as an overvote
Overvotes: DRE systems that provide a method to data enter absentee votes must account for overvotes.	Yes	
Undervotes		
Undervotes: System counts undervotes cast for accounting purposes	Yes	
Blank Ballots		
Totally Blank Ballots: Any blank ballot alert is tested.	Yes	
Totally Blank Ballots: If blank ballots are not immediately processed, there must be a provision to recognize and accept them	Yes	
Totally Blank Ballots: If operators can access a blank ballot, there must be a provision for resolution.	Yes	
Networking		
Wide Area Network – Use of Modems	No	
Wide Area Network – Use of Wireless	No	
Local Area Network – Use of TCP/IP	Yes	
Local Area Network – Use of Infrared	No	
Local Area Network – Use of Wireless	No	
FIPS 140-2 validated cryptographic module	Yes	
Used as (if applicable):		
Precinct counting device	Yes	
Central counting device	Yes	



U. S. Election Assistance Commission
Voting System Testing and Certification Program
1335 East West Highway, Suite 4300
Silver Spring, MD 20910

March 15, 2019

Pam Geppert
Hart InterCivic
15500 Wells Port Drive
Austin, TX 78728

Sent via e-mail

Re: Agency Decision – Grant of Certification

Dear Mrs. Geppert,

As required under §5.9 of the EAC's Voting System Testing and Certification Program Manual, Hart InterCivic and SLI Compliance have provided the necessary documentation for the Hart Verity Voting 2.3 voting system verifying that 1) the trusted build has been performed, 2) software has been deposited in an approved repository, 3) system identification tools are available to election officials, and 4) signed a letter stating, under penalty of law, that you have:

1. Performed a trusted build consistent with the requirements of §5.6 of the EAC's Certification Manual;
2. Deposited software consistent with §5.7 of the EAC's Certification Manual;
3. Created and made available system identification tools consistent with §5.8 of the EAC's Certification Manual (a copy and description of the system identification tool developed must be provided with the letter); and
4. Upon a final decision to grant certification, the manufacturer accepts the certification and all conditions placed on the certification.

Based on the review of the documentation above and the fact that Hart Verity Voting 2.3 voting system successfully completed conformance testing to the 2005 Voluntary Voting System Guidelines (2005 VVSG), the Voting System Testing & Certification Program Director has recommended EAC certification of this system.

I have reviewed all of the documentation and concur with the Program Director's recommendation. As such, I hereby grant EAC Certification to the Hart Verity Voting 2.3 voting system to the 2005 Voluntary Voting System Guidelines.

The EAC certification number issued for this system is: **HRT-Verity-2.3**. In addition, a Certificate of Conformance shall be provided to Hart InterCivic as evidence of the EAC certification of the Hart Verity Voting 2.3 voting system. The Certificate of Conformance shall be provided to Hart InterCivic no later than five business days from the date of this letter, and it shall be posted on the EAC's Web site.

As stated in §5.11 of the EAC's Certification Manual, the EAC certification and certificate apply only to the specific voting system configuration(s) identified, submitted, and evaluated under the Certification Program. Any modification to the system not authorized by the EAC shall void the certificate.

If you have any questions or need further information, please do not hesitate to contact Ryan Macias at your earliest convenience. I thank you in advance for your time and attention to this matter and congratulate on this achievement.

Sincerely,



Brian D. Newby
Executive Director
Decision Authority

cc: Traci Mapps, SLI Compliance



U. S. ELECTION ASSISTANCE COMMISSION
VOTING SYSTEM TESTING AND CERTIFICATION PROGRAM
1335 East West Highway, Suite 4300
Silver Spring, MD 20910

March 1, 2019

Pam Geppert, Director of Certification
Hart InterCivic
15500 Wells Port Drive
Austin, TX 78728

Sent via e-mail

Re: Initial Decision on Certification

Dear Mrs. Geppert,

This correspondence is to inform you that Hart Verity Voting 2.3 voting system completed the initial step towards receipt of an EAC certification. This Initial Decision on Certification represents an EAC acknowledgement that Verity Voting 2.3 has successfully completed conformance testing to the 2005 *Voluntary Voting System Guidelines*.

However, as provided in §5.9 of the EAC's *Voting System Testing and Certification Program Manual* (Certification Manual), for an Initial Decision to become final and to issue a certification number and a Certificate of Conformance, a manufacturer must provide documentation to the Program Director verifying that the trusted build has been performed, software has been deposited in an approved repository, and system identification tools are available to election officials. A manufacturer must submit a letter, signed by both its management representative and an SLI Compliance official, stating (under penalty of law) that it has:

1. Performed a trusted build consistent with the requirements of §5.6 of the EAC's Certification Manual;
2. Deposited software consistent with §5.7 of the EAC's Certification Manual;
3. Created and made available system identification tools consistent with §5.8 of the EAC's Certification Manual (a copy and description of the system identification tool developed must be provided with the letter); and
4. Upon a final decision to grant certification, the manufacturer accepts the certification and all conditions placed on the certification.

Upon receipt of documentation demonstrating the successful completion of the requirements above and recommendation of the Program Director, I will issue an Agency Decision granting certification and provide Hart Verity Voting 2.3 with a certification number and Certificate of Conformance.

If you have any questions or need further information, please do not hesitate to contact Jerome Lovato at your earliest convenience. I thank you in advance for your time and attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "BDN", written in a cursive style.

Brian D. Newby
Executive Director
Decision Authority

Cc: Jerome Lovato, U.S. Election Assistance Commission
Traci Mapps, SLI Compliance

Dominion

Request for approval – D-Suite 5.5

De Minimis Changes

December 3, 2019

- Ian Piper, Director Federal Certification
- Jeff Phillips, Customer Relations
Manager for Tennessee



1201 18th Street, Suite 210 Denver, CO 80202

Dominion ECO Descriptions

Below are descriptions of the eleven (11) ECOs submitted to the State of Tennessee on September 11, 2019.

1. ECO 100500 ICX Prime B1R

In D-Suite 5.5, the original ICX Prime unit used steel for the chassis material and had a battery charge shelf life of less than 3 months. This COTS product was changed by its manufacturer (Avalue) to use aluminum for the chassis to make the product lighter (16# instead of 22#). They also extended the battery charge shelf life to 6 months by minimizing the drain on the battery after the unit is shutdown. No changes were made to the motherboard, LCD display, touch panel, smart card reader, or operating system upon which Dominion's ICX application runs. Avalue branded this configuration with the suffix -B1R in their part number. The same ICX application operates on both the steel chassis or the aluminum chassis ICX Prime units.

2. ECO 100531 ICX Prime B1R Power Connector

The COTS manufacturer (Avalue) changed the connector format for a low voltage output power connector that is used to power a VVPAT printer, which is attached to unit when used in the ICX DRE with VVPAT configuration. Although there are no implementations of the VVPAT proposed currently for Tennessee, this new connector is an inherent part of the ICX Prime B1R product. In the ICX BMD configuration, this output power connector is not used.

3. ECO 100504 APC SMT-1500C UPS

The UPS manufacturer (APC) stopped producing the SMT-1500 product. Based on a datasheet comparison, in the SMT-1500C, they improved the surge protection from 459 Joules to 680 Joules and relabeled the model of this COTS product as SMT-1500C. There is no difference in this product's performance with the D-Suite system.

4. ECO 100521 Dell P2419H Monitor

The COTS manufacturer (Dell) stopped producing the P2417H monitor product. Based on a comparison of the product specifications and diagrams, in the P2419H monitor product, they improved the display response time from 8msec to 6msec and rearranged the layout of the input connectors. The P2419H monitor has the same physical size and resolution of the previous monitor. There is no difference in this product's performance or connectivity with the D-Suite system.

5. ECO 100597 Dell PowerEdge R640 Processor-RAM

The COTS manufacturer (Dell) stopped producing their PowerEdge R640 with an Intel Xeon Gold 5115 processor and replaced it with an Intel Xeon Gold 5215 processor, which has a faster memory bus speed. Dell also changed the RAM from a bus speed of 2666 MegaTransfers per second (MT/s) to a faster 2933 MT/s to be compatible with the new processor.

6. ECO 100602 Dell Precision 3431 Computer

The COTS manufacturer (Dell) stopped producing the Precision 3430 computer and replaced it with the Precision 3431 computer. The previous Precision 3430 used an Intel i3-8100 processor, and the newer Precision 3431 uses an Intel i3-9100 processor.

7. ECO 100596 Dell Latitude 3400 Laptop

The COTS manufacturer (Dell) stopped producing the Latitude 3490 laptop computer and replaced it with the Latitude 3400 model. The previous Latitude 3490 used a 7th generation Intel Core i3-7130U processor and the newer Latitude 3400 uses an 8th generation Intel Cor i3-8145U processor.

8. ECO 100543 Canon DR-G1130 w/ New Panel

The COTS manufacturer (Canon) modified the operation panel on their DR-G1130 scanner. The new Operation Panel was designed to improve the quality of LCD display and to add more language selections for displayed texts. The number of buttons and the functions operated by the buttons on the Operation Panel remained the same.

9. ECO 100588 KFI VVPAT Printer (Stepper Motor)

The COTS manufacturer (KFI) changed the rewinder stepper motor in their printer to one using a metal housing instead of a plastic housing. KFI made this change to improve the availability of this part and improve the manufacturability of their product.

10. ECO 100565 Apacer USB Memory Sticks (8GB + 16GB)

Dominion added this COTS memory device product from Apacer to the D-Suite system configuration to provide an alternate supplier for these memory devices. Previously the Centon memory devices were only ones qualified for use in the D-Suite system. Now the Apacer products are also qualified for use.

11. ECO 100503 ICP Collapsible Ballot Box

Dominion added this COTS collapsible ballot box from ElectionSource for use with the ImageCast Precinct unit (ICP). It is an alternate ballot box that is more compact than Dominion's molded plastic ballot box on wheels. Dominion tested this ballot box with the ICP and found no issues with its use.

Abbreviations Used:

- COTS Commercial-Off-The-Shelf
- DRE Direct Record Electronic
- D-Suite Democracy Suite
- ECO Engineering Change Order
- HDD Hard Disk Drive
- ICP ImageCast Precinct
- ICX ImageCast X
- msec Milliseconds
- MT/s Mega Transfers per Second
- UPS Uninterruptible Power Supply
- VVPAT Voter Verifiable Paper Audit Trail



DECEMBER 3, 2019

DOMINION VOTING
DEMOCRACY SUITE 5.5
ENGINEERING CHANGE ORDERS (ECOS)
FOR THE STATE OF TENNESSEE

This document is submitted in confidence and contains some or all of the following types of information: trade secrets, scientific information, financial information, technical information, commercial information, and labour relations information. Disclosure of any of the information contained in any of the documents herein would result in undue loss to Dominion Voting Systems.

INTRODUCTION

- Dominion Voting System Representatives
- **Ian Piper** Director, Certification
- **Jeff Phillips** Customer Relations Manager, TN-OH

ECO PROCESS

Engineering Change Order (ECO) Process for COTS products (Commercial-Off-The-Shelf)

1. COTS products continuously change or go End of Life (EOL) and require replacing
2. Dominion tests new COTS product replacements and submits ECOs to VSTL and EAC
3. VSTL provides analysis to EAC as to whether change is considered “de minimis”
4. EAC reviews ECO submission and either approves or rejects the change
5. Some states accept EAC approvals, others require their own review
6. Dominion submits to states the same materials that are submitted to VSTL and EAC
7. State reviews ECO submission and either approves or rejects the change

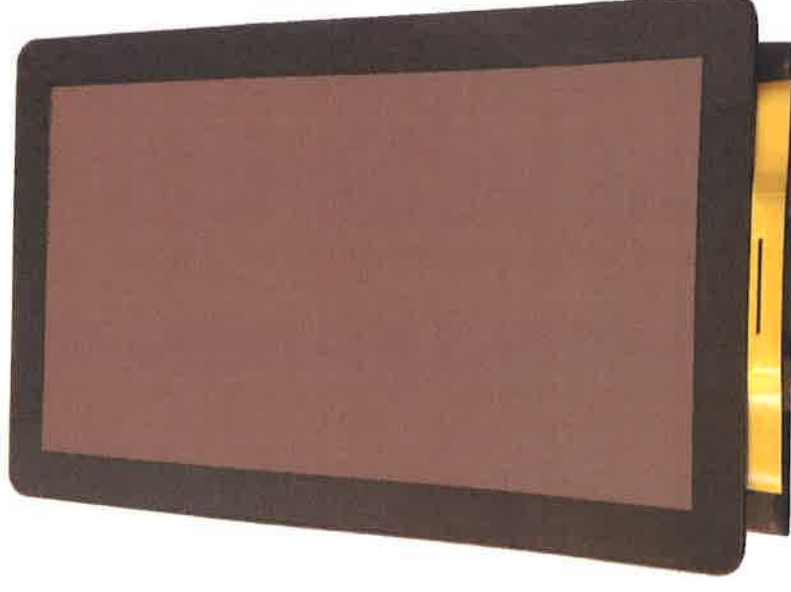
DEMOCRACY SUITE ECOS OVERVIEW

1. ECO 100500 ICX Prime B1R
2. ECO 100531 ICX Prime B1R Power Connector
3. ECO 100504 APC SMT-1500C UPS
4. ECO 100521 Dell P2419H Monitor
5. ECO 100597 Dell PowerEdge R640 Processor-RAM
6. ECO 100602 Dell Precision 3431 Computer
7. ECO 100596 Dell Latitude 3400 Laptop
8. ECO 100543 Canon DR-G1130 w/ New Panel
9. ECO 100588 KFI VVPAT Printer (Stepper Motor)
10. ECO 100565 Apacer USB Memory Sticks (8GB + 16GB)
11. ECO 100503 ICP Collapsible Ballot Box

DOMINION ECOS

1. ECO 100500 ICX Prime B1R

- Aluminum chassis instead of Steel
- 16# instead of 22#
- Battery charge shelf life of 6 months instead of less than 3 months
- All the same motherboard, LCD display, touch panel, smart card reader, operating system
- The same ICX application software operates on both units



DOMINION ECOS

2. ECO 100531 ICX Prime B1R Power Connector

- Low voltage connector for VVPAT Printer (not currently proposed for use in TN)
- DIN connector instead of Phoenix connector
- Connector not used in ICX BMD configuration



Old Connector



New Connector

DOMINION ECOS

3. ECO 100531 APC SMT-1500C UPS

- APC replaced the SMT-1500 model with the SMT-1500C
- Improved surge protection from 459 Joules to 680 Joules
- No impact on the product's performance with the D-Suite system



SMT-1500



SMT-1500C

DOMINION ECOS

4. ECO 100521 Dell P2419H Monitor

- Dell replaced the P2417H monitor with the P2419H monitor
- Improved display response time from 8msec to 6msec
- No impact on the product's performance with the D-Suite system



P2417H



P2419H

DOMINION ECOS

5. ECO 100597 Dell PowerEdge R640 Processor-RAM

- Dell replaced the Intel Xeon Gold 5115 processor with the Intel Xeon Gold 5215 processor
- Dell replaced the RAM modules to match the new processor's memory bus speed
- No impact on the product's performance with the D-Suite system



PowerEdge R640

DOMINION ECOS

6. ECO 100602 Dell Precision 3431 Computer

- Dell replaced the Precision 3430 computer with the Precision 3431
- Precision 3431 uses an Intel i3-9100 processor instead of the Intel i3-8100 processor in the Precision 3430
- No impact on the product's performance with the D-Suite system



Precision 3430



Precision 3431

DOMINION ECOS

7. ECO 100596 Dell Latitude 3400 Laptop Computer

- Dell replaced the Latitude 3490 laptop with the Latitude 3400 laptop
- Latitude 3400 uses an Intel i3-8145U processor instead of the Intel i3-7130U processor in the Latitude 3490
- No impact on the product's performance with the D-Suite system



Latitude 3490



Latitude 3400

DOMINION ECOS

8. ECO 100543 Canon DR-G1130 w/ New Panel

- Canon updated the Operation Panel on their DR-G1130 scanner
- Improved the quality of the LCD display and provided a new button layout
- No impact on the product's performance with the D-Suite system



Original DR-G1130



Updated DR-G1130

DOMINION ECOS

9. ECO 100588 KFI VVPAT Printer Stepper Motor

- KFI changed the rewinder stepper motor in their printer
- Metal housing instead of plastic
- No impact on the product's performance with the D-Suite system



Plastic Housing



Metal Housing



KFI VVPAT Printer

DOMINION ECOS

10. ECO 100565 **Apacer USB Memory Sticks (8GB + 16GB)**

- Dominion added this COTS memory device from Apacer to provide an alternate supplier of this product
- Dominion has qualified the Apacer memory devices for use in the D-Suite system
- No impact on the product's performance with the D-Suite system



Apacer Memory Devices

DOMINION ECOS

11. ECO 100503 ICP Collapsible Ballot Box

- Dominion added this COTS collapsible ballot box from ElectionSource for use with the ImageCast Precinct unit
- More compact than Dominion's molded plastic ballot box on wheels
- No impact on the product's performance with the D-Suite system



Collapsed



Setting Up



Assembled

DOMINION ECO Q&A



Questions & Answers

Thank you!



TO LEARN MORE ABOUT OUR TECHNOLOGY, PEOPLE AND SERVICES
VISIT [DOMINIONVOTING.COM](https://dominionvoting.com) TODAY

