

Minutes
State Election Commission Meeting
July 14, 2014

The State Election Commission meeting was called to order by Chairman Judy Blackburn at 12:15 p.m., Central Standard Time, July 14, 2014. The following members and staff were present: Chairman Blackburn; Commissioners Barrett, Head, Wallace and Wheeler; Coordinator of Elections Mark Goins, Andrew Dodd, Elections Attorney and Kathy Summers, Elections Specialist.

Commissioner Wallace made a motion to adopt the minutes from May 12, 2014, Commissioner Head seconded the motion and the minutes were unanimously approved as corrected. (Aye votes: Barrett, Blackburn, Head, Wallace and Wheeler; No votes: None; Abstention: None.)

Commissioner Head made a motion pursuant to T.C.A. § § 2-12-101 and 2-12-106, seconded by Commissioner Wallace and unanimously approved by the commission to accept the nomination(s) for county election commission appointments as submitted, and to leave the nomination process open until 4:30 p.m. Central Standard Time Monday, July 14, 2014. (Aye votes: Blackburn, Barrett, Head, Wallace and Wheeler; No votes: None; Abstention: None.) **(See attached list of appointments made.)**

Old Business

- **Hamilton County – use of Intab ballot/supply bags.**

Coordinator Goins spoke regarding the ballot/supply bags used by Hamilton County Election Commission. The county election commission has procedures in place which safeguard the ballots and Coordinator Goins requests approval of the bags through the remainder of the year.

Commissioner Barrett made a motion to approve the use of the ballot/supply bags used by Hamilton County through the remainder of the year, seconded by Commissioner Head. The motion was unanimously approved. (Aye votes: Blackburn, Barrett, Head, Wallace and Wheeler; No votes: None; Abstention: None.)

- **Maury County Election Commission – Censure of County Election Commissioner.**

A complaint was filed with the State Election Commission by the Maury County Election Commission. The complaint was regarding Commissioner Lynn C. Nelson voting in the May 6, 2014, Maury County Republican Party Primary. Mr. Nelson is appointed as a Democratic member of the Maury County Election Commission.

Attorney Jason Holleman spoke for Mr. Nelson. Mr. Holleman indicated this was the first time Maury County had a county primary for county offices and Mr. Nelson was not aware he could not vote in the Republican Primary. The Democratic Party did not hold a county primary in Maury County. Representative David Shepard spoke on Mr. Nelson's behalf. Representative Shepard indicated some counties do not have these types of primaries for county offices and legislation may need to be addressed for future elections. Mr. Shepard said the legislature should also address and define in more detail the duties of a county election commissioner. Mr. Nelson addressed the State Election Commission members. It was Mr. Nelson's belief he was eligible to vote in the primary. Commissioner Bill Anderson, Republican member of the Maury County Election Commission, believed Mr. Nelson was aware of the requirements set out in TCA § 2-7-115. Mr. Anderson also believes that Mr. Nelson violated TCA § 2-19-107, TCA § 2-19-109 and TCA § 2-19-113.

Commissioner Head made a motion to not remove Mr. Nelson and to notify county election commissioners of the requirement when voting in a primary election. Commissioner Head's motion failed for lack of a second.

Commissioner Wheeler made a motion to notify all county election commissioners of the statute which requires election commission members to represent our two statewide political parties and to inform the commission members that 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 motion was seconded by Commissioner Head and was approved unanimously. (Aye votes: Blackburn, Barrett, Head, Wallace and Wheeler; No votes: None; Abstention: None.)

Commissioner Barrett made a motion to remove Maury County Election Commissioner Nelson and reconsider his reappointment in April 2015. Commissioner Barrett's motion failed for lack of a second.

Commissioner Wallace made a motion to censure Commissioner Nelson. The motion was seconded by Commissioner Head. The commission voted unanimously to censure Commissioner Nelson. (Aye votes: Blackburn, Barrett, Head, Wallace and Wheeler; No votes: None; Abstention: None.)

New Business

- **McMinn County** - State Election members discussed the request made by Kris Williams, McMinn County Election Administrator to be excused from the June 2014 State Seminar.

A motion was made by Commissioner Head and seconded by Commissioner Barrett to excuse Kris Williams from the seminar. The motion was unanimously approved. (Aye votes: Blackburn, Barrett, Head, Wallace and Wheeler; No votes: None; Abstention: None.)

- **Overton County** - State Election members discussed the request made by Craig Story, Overton County Election Administrator to be excused from the June 2014 State Seminar. The Town of Livingston held their regular city election on June 3, 2014, which was during the State Seminar.

A motion was made by Commissioner Barrett and seconded by Commissioner Head to excuse Craig Story from the seminar. The motion was unanimously approved. (Aye votes: Blackburn, Barrett, Head, Wallace and Wheeler; No votes: None; Abstention: None.)

- **Lewis L. Laska – Requested to speak before the State Election Commission and have his name included on the August General Ballot** – Mr. Laska spoke with the State Election Commission and explained why his name should be placed on the August General ballot for the Tennessee Supreme Court.

Coordinator Goins addressed the commission and discussed the appropriate statutes and State Constitution which govern the nomination of judicial candidates by retention. Mr. Laska was not placed on the ballot.

Coordinator Update

- **Voter Guide** – Coordinator Goins provided the commissioners with a copy of the 2014 Voter Guide.
- **Honor Vote** – Coordinator Goins updated the commission on the 2014 Honor Vote campaign which gives Tennesseans the opportunity to dedicate their vote to active-duty military personnel and veterans. The program was implemented in 2012, and received nearly 3,500 submissions.
- **I am Registered to Vote** – Coordinator Goins explained the “I am Registered to Vote” program and provided the successes of the 2013 campaign. This program is designed to encourage people to register to vote.
- **August 7, 2014 – State Primary and County General Election** – Coordinator Goins advised due to the length of the August ballot, and the amount of time to read the ballot during the voting process, lines on Election Day are expected to be long.
- **Sample Ballots** - Sample ballots are posted on the county election commission website and if the county does not have a website the counties are required to send their sample ballot to the Division of Elections to post on the Elections website. Coordinator Goins

advised the Elections Division is currently designing a mobile application which will allow voters to download and review their specific ballot.

The next regularly scheduled meeting is October 13, 2014. The meeting will be held in the William R. Snodgrass – Tennessee Tower, Nashville Room - 3rd floor at 12:00 Noon Central Standard Time.

Chairman Blackburn adjourned the meeting.

Respectfully submitted,

A handwritten signature in blue ink that reads "Tommy Head". The signature is written in a cursive style with a prominent initial "T".

Tommy Head, Acting - Secretary
State Election Commission

Vacant Status

14-Jul-14

Dyer

D Greg Duckett
R Jimmy Wallace

R

Henderson

D Greg Duckett
R Jimmy Wallace

R

Moore

D Tommy Head
R Donna Barrett

D

Union

D Tom Wheeler
R Kent Younce

R

Warren

D Tommy Head
R Kent Younce

R

Total Vacancies: 5

Holdover Status

14-Jul-14

		Appointment	Reappointment	
Benton				
D	Greg Duckett			
R	Jimmy Wallace			
	D	Ronnie Pruiett	6/17/2008	4/11/2011
	D	Dinah S. (Diane) Latimer	10/8/2012	10/8/2012
Gibson				
D	Greg Duckett			
R	Jimmy Wallace			
	D	Kathleen Smith	6/22/2007	5/27/2009
	D	Robert S. Phelan	4/3/1995	5/27/2009
Total Holdovers: 4				

New Appointment Status

15-Jul-14

		Appointment
Dver	D Greg Duckett / R Jimmy Wallace R Aleece Jackson	7/14/2014
Henderson	D Greg Duckett / R Jimmy Wallace R William "Bill" R. Martin	7/14/2014
Moore	D Tommy Head / R Donna Barrett D Benji Garland	7/14/2014
Union	D Tom Wheeler / R Kent Younce R Tammy Maria Merritt	7/14/2014
Warren	D Tommy Head / R Kent Younce R Bulon (Ben) Nixon	7/14/2014

Total New Commissioners: 5

Maury County Election Commission Members

Member Name	SEC Member	Re-Appointment ?
Samuel Jason Whatley P. O. Box 411 Columbia, TN 38402-0411 (931) 388-4288	Donna Barrett	Yes <input type="checkbox"/> No <input type="checkbox"/>
Alpha B. (Tiny) Jones 1120 Mooresville Pike Columbia, TN 38401 (931) 338-0085	Donna Barrett	Yes <input type="checkbox"/> No <input type="checkbox"/>
Maurice M. (Bill) Anderson 3048 General Forrest Drive Columbia, TN 38401 (931) 380-1038	Donna Barrett	Yes <input type="checkbox"/> No <input type="checkbox"/>
Jerry C. Colley, Jr. P. O. Box 1476 Columbia, TN 38402 (931) 388-8564	Tommy Head	Yes <input type="checkbox"/> No <input type="checkbox"/>
Lynn Charles Nelson 125 Sunnyside Lane Columbia, TN 38401 (931) 381-2913	Tommy Head	Yes <input type="checkbox"/> No <input type="checkbox"/>

*** * * If Re-Appointment Is Checked "No", Please Complete A New Appointment Form * * ***

Kathy Summers

From: Mark Goins
ent: Monday, July 07, 2014 2:33 PM
To: 'mmanninganders@aol.com'; 'colley2@bellsouth.net'; 'sjwlaw@gmail.com'; 'tinybjones@yahoo.com'; 'nelsonlynn@att.net'
Cc: 'Donna Barrett'; 'Judy Blackburn'; 'kentyounce@comcast.net'; 'twheeler@hpiknox.com'; 'jtommyhead@gmail.com'; 'greg.duckett@bmhcc.org'; wh@aeneas.net (wh@aeneas.net); Kathy Summers; 'mauryelection@maurycounty-tn.gov'
Subject: July 14, 2014 State Election Commission meeting

Maury County Election Commissioners,

Per a phone call request I received earlier today this communication is to explain the process for the upcoming State Election Commission (SEC) meeting and make it clear each of you are invited and encouraged to attend the July 14, 2014 meeting. My understanding is the SEC is going to discuss the complaint that was filed by a majority of the Maury County Election Commission. The issue is whether voting in the opposite party's primary by an election commissioner disqualifies the election commissioner from serving on the election commission. 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.

Ultimately, the SEC will determine whether Commissioner Nelson is qualified to continue to serve on the Maury County election commission at the July 14, 2014 meeting. Please let me know if you have any questions.

Sincerely,

Mark Goins
Coordinator of Elections
Division of Elections
Office of Tennessee Secretary of State Tre Hargett
312 Rosa L. Parks Ave., 7th Floor
William R. Snodgrass Tower
Nashville, TN 37243
(615) 741-7956
(615) 741-1278 (fax)

This electronic mail may be subject to the Tennessee Public Records Act, Tenn. Code Ann. §10-7-503 *et seq.* Any reply to this email may also be subject to this act.

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MAURY COUNTY ELECTION COMMISSION

Tiny Jones
Chairman

1207A TRADEWINDS DRIVE
COLUMBIA, TENNESSEE 38401
TELEPHONE (931) 375-6001

Todd Baxter
Administrator of Elections

Jerry Colley
Secretary

Brandi Cothron
Chief Deputy

S. Jason Whatley
Lynn Nelson
Bill Anderson
Members

Sylvia Givens
Erin Shouse
Deputies

May 6, 2014

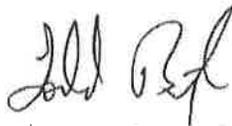
Mr. Mark Goins
State Election Coordinator
312 Rosa L. Parks Avenue
Seventh Floor, Snodgrass Tower
Nashville, Tennessee 37243

Dear Mr. Goins:

The enclosed resolution was passed by the Maury County Election Commission, at their May 5, 2014 meeting. In addition, the Election Commission requested that a copy be forwarded for consideration by the State Election Commission.

If you have any questions, do not hesitate to call. As always, thank you for your help and cooperation.

Sincerely,



Todd Baxter, Administrator of Elections
Maury County Election Commission

RECEIVED

2014 MAY -7 AM 11:03

SECRETARY OF STATE
ELECTIONS

Whereas Lynn C. Nelson has been appointed to the Maury County Election Commission as representative of the Democratic Party and is a Vice-President of the Maury County Democratic Party ;

Whereas Tennessee Election Laws 2-7-115 states:

(b) 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;

Whereas Lynn C. Nelson, having no intention to declare allegiance to the Republican Party or to affiliate with the Republican Party, nor being a bona fide member of the same, did vote in the Maury County Republican primary on Saturday April 26, 2014; and

Wherefore, despite years of honorable and selfless service to the Maury County Election Commission, the Maury County Election Commission does hereby censure the conduct of Lynn C. Nelson and also hereby resolves that the State of Tennessee Election Commission consider Lynn C. Nelson for removal from the Maury County Election Commission or such other response as the State of Tennessee Election Commission deems appropriate.

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2014 MAY -7 AM 11:03

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Del Webb

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Election official censured



By VANESSA CURRY
vcurry@c-dh.net

Maury County's Election Commission on Monday censured one of its Democratic members and is asking state officials to consider removing him from office for voting in the local Republican primary.

The board voted 3-2 to censure commissioner Lynn C. Nelson of Columbia, the vice president of the Maury County Democratic Party who served as a Tennessee delegate to the national Democratic Party Convention in 2012.

Commissioner Jerry Colley joined Nelson in voting against the motion to censure. Colley, also a Democrat, said he believes Nelson did not know a state statute limits voting in a primary to a bona fide member of the sponsoring party or a voter who declares allegiance to that political party.

"I don't think I even knew that," Colley said.

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Tiny Jones, the election commission's chairwoman, said Nelson defended his actions on Monday by saying he believed he has the right to vote since he is a taxpayer, and tax dollars paid for the election. Nelson did not return a telephone message seeking comment left at his home on Monday.

Although recognizing Nelson's "years of honorable and selfless service to the Maury County Election Commission," the commission's resolution also resolved that the Tennessee Election Commission consider removing Nelson from his office or "such other response" as that office deems appropriate.

"This commission acted with wisdom, patience and grace," Jones said. "I think those three words appreciate the fact that this was dealt with in an appropriate manner."

Commission member Jason Whatley said Monday's action was unfortunate, but necessary.

"Contrary to many public pronouncements by various people, a party primary is not open to anyone to come and essentially make a mockery of the process," he said. "People who disagree with that are disagreeing with the law and they're demonstrating a gross misunderstanding of what the law says. This system is based on good faith and the trust of those who seek to vote in that election. Some might say that's a reckless system and it ought to be changed, but until it is changed, good faith is the defense that the system has."

Tuesday's primary is the first-ever local Republican party election in Maury County and has caused some confusion about who is eligible to cast a ballot. Although all registered voters may vote in the primary, voting is generally limited to party members or those who intend to affiliate with that party.

A designated poll watcher may challenge a voter at the polling location if he believes the voter is not qualified to cast a ballot in a specific primary. That challenge then is reviewed by a panel of three poll judges. There are no designated poll watchers for this election.

"We were disappointed that Lynn did that. We didn't discuss it before hand," Maury County Democratic Party Chairman Gregg Hanners said. "But my understanding is Lynn and Mike didn't get along when they worked together. It (vote) wasn't political. It was personal."

Last week, Maury County Republican Party Chairwoman Pat Junkin addressed concerns about cross-over voting in the primary and indicated those who did vote could receive a membership card and a bill for party dues. In an email message on Monday, Junkin said voters will not be receiving a bill but could receive a membership card "as a welcoming courtesy."

Monday's challenge came from Bill Anderson, an election commissioner and a member of the Maury County Republican Party's executive committee. He said a Republican mayoral candidate told him Nelson had voted. Anderson declined to identify that candidate.

Anderson said he then checked the voting records — which are public records — and learned Nelson had voted on April 26. He said he also checked another name given to him and learned that person had not voted.

Republican mayoral candidate Mike Bennell confirmed Monday that he reported Nelson's "unethical actions" to Junkin after hearing Nelson speak on April 7 during a United Auto Workers Local 1853 retiree meeting. Both Bennell and Nelson previously worked for Saturn, which is now General Motors.

Bennell said Nelson apparently was unaware of Bennell's presence at the meeting when he stood up and encouraged members to vote against the candidate because he is a "traitor to the Democratic party" and a "traitor to the UAW" for running as a Republican.

Bennell said Nelson also stopped to speak to Bennell's wife, who was campaigning for her husband on Tradewinds Drive, and told her he was voting against him.

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NELSON, LYNN C 17632

125 SUNNYSIDE LN

COLUMBIA 38401

Elections: Ballot
 Number: District: CD09
 General Primary: _____ Precinct: PLHT
 Democrat _____
 Republican _____ Ward: C4 MC: PH
 Municipal _____
 Referendum _____ Election Date:
 Other: _____ 5-06-2014

House Congress
64TH 4TH

Special Absentee Voting: (if Applicable)

- Emergency hospitalization within county.
- I will be absent from the election due to the death of a relative.
- I will be absent due to service of process or subpoena.
- I am a full-time resident of a licensed nursing home, home for the aged or institution providing relatively permanent domiciliary care.

NOTICE: A PERSON WHO APPLIES TO VOTE WHO IS NOT ENTITLED TO DO SO COMMITS FELONY PUNISHABLE BY ONE(1) YEAR TO SIX(6) YEARS IN PRISON AND FINED UP TO \$3,000.

I hereby declare that I reside at the above address, am a registered voter of this county, and desire to vote early. I also declare I have not previously voted in this election, nor will I try to vote at my polling place election day.

(Signature of Voter)

Assistance Signatures: (Required if voter cannot sign or if assistance given.)

(Signature of Person Assisting) (Address) (Date)

(Signature of Witness) (Address) (Date)

The signatures above and on permanent registration record (are) (are not) the same.

Application accepted and supplies furnished

Application rejected for _____

Date: 4-26-14

ES
Registrar or Deputy

OVERTON CO. ELECTION COMMISSION

P. O. BOX 384

LIVINGSTON, TN. 38570

PHONE 931-823-5985 FAX 931-823-5884

BETH COX, CHAIR MARIE BUSH, SECRETARY

HERSHEL WILSON, MEMBER SHARON OTT, MEMBER

JOHN HOUSER, MEMBER

To: Tennessee Election Commission
C/o Mark Goins
Coordinator of Elections
312 Rosa L. Parks Ave., 7th Floor
William R. Snodgrass Tower
Nashville, TN 37243

Tennessee Election Commission

The Town of Livingston will be holding an election on Wednesday, June 4, 2014. This will require my asking to be excused from attending a portion of the state mandated seminar. I would like permission to leave at the conclusion of the morning session on Tuesday in order to make preparations and conduct this election.

Sincerely,



Craig Story
Administrator of Elections
Overton County

2014 MAY 29 PM 12: 58
SECRETARY OF STATE
ELECTIONS

RECEIVED

CCPY

LEWIS L. LASKA
ATTORNEY AT LAW
901 CHURCH STREET
NASHVILLE, TENNESSEE 37203-3411
TELEPHONE: 615-255-6288
FAX: 615-255-6289
E-MAIL: llaska@verdictslaska.com

Judy H. Blackburn
Member - Chair
State Election Commission
1101 Heykoop Drive
Morristown, TN 37127

June 17, 2014

2014 JUN 17 AM 9:27
SECRETARY OF STATE
ELECTIONS
MORRISTOWN

Re: Agenda for Election Commission Meeting July 14, 2014

Dear Ms. Blackburn:

The purpose of this letter is to demand that my name be placed on the agenda of the July 14, 2014 State Election Commission to that I can convince the commission that my name should be placed on the August ballot for a seat on the Middle Section, Tennessee Supreme Court. This is the seat presently occupied by Bill Koch, whose term is expiring and there is no present incumbent. At least none whose name will appear on the ballot.

In 1996 I appeared before the commission when I also insisted that my name be placed on the ballot – that time against Penny White – and Brent Thompson simply intimidated the commission by saying that he had the right to decide “legal questions” and he said no. I argued that he did not have such power and later litigation proved I was right. Ms. Blackburn, what is the purpose of the State Election Commission if all it does is rubber stamp the Election Coordinator’s “rulings?” Nevertheless, the vote was 2 to 3, Republicans in my favor.

The notion that there should be *no election* for the Middle and Western Section seats is clearly wrong and probably unconstitutional. Retention elections are bad enough – but “skipping” an election is wholly undemocratic. It’s the kind of thing that happens in totalitarian regimes and in fifth rate democracies. The Tennessee Constitution says that judges “shall be elected.” It does not say, “shall be elected if convenient.”

Although the Supreme Court race is usually nonpartisan, I would like to be listed as a Democrat, if a party label is necessary. Indeed, I am a conservative democrat. You should know that I am in favor of the death penalty – it’s the law – and I’m the only lawyer who has actually written a book on the Tennessee death penalty. Furthermore, in 1990 I wrote a book on the Tennessee Constitution which I am revising at this time. It’s the only recent book on that subject.

Ms. Blackburn, please contact me at the number above or my cell phone (615) 491-2928 if you have any questions.

Sincerely,


Lewis L. Laska

17-4-114. Declaration of candidacy to fill unexpired term — Election — Ballot — Declaration of candidacy not timely filed.

(a) (1) An incumbent appellate judge who seeks election to fill the unexpired term of the office to which the incumbent judge was appointed must qualify by filing with the state election commission a written declaration of candidacy to fill the unexpired term. The declaration must be filed not later than twelve o'clock (12:00) noon prevailing time on the first Thursday in February before the next regular August election occurring more than thirty (30) days after occurrence of the vacancy that was filled by the incumbent appellate judge. After timely filing the declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing the declaration of candidacy.

(2) An incumbent appellate judge who seeks election to fill the unexpired term of the office to which the incumbent judge was appointed but who was appointed after the first Thursday in February before the next regular August election occurring more than thirty (30) days after occurrence of the vacancy that was filled by the incumbent judge must qualify by filing with the state election commission a written declaration of candidacy to fill the unexpired term. The declaration must be filed not later than the first Thursday occurring at least one (1) full week after the appointment. After timely filing the declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing the declaration of candidacy.

(3) Title 2, chapter 5, part 1, does not apply to an election in which an incumbent appellate judge seeks election to fill the unexpired term of the office to which the incumbent judge was appointed, unless a contested election is required by subsection (c) or subdivision (d)(2).

(b) (1) If the declaration of candidacy is timely filed, only the name of the candidate, without party designation, shall be submitted to the electorate in this state in the regular August election. Each county election commission of the state shall cause the following to be placed on the ballot:

Shall *(Name of Candidate)* be retained or replaced in office as a Judge of the *(Name of the Court)* ?

_____ Retain

OR

_____ Replace.

(2) If the declaration of candidacy is not timely filed, then the judicial performance evaluation commission shall not include an evaluation or retention recommendation for the incumbent judge within the final report publicly disclosed pursuant to § 17-4-201(c), and the judge's name shall not be submitted to the electorate.

(c) If the judicial performance evaluation commission makes a recommendation “for replacement” of an incumbent appellate judge but the judge nevertheless files or has filed the declaration of candidacy required by subsection (a), then subdivision (b)(1) shall not be applicable and the unexpired term shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. If the judge's term of office is abbreviated because of death, resignation or removal after the filing of the declaration of candidacy but prior to the third Thursday in May preceding the regular August general election, then the vacancy shall be filled in accordance with § 17-4-112 or § 17-4-113, and no such contested election shall be held. In accordance with § 2-13-203, each political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election, which shall be the regular August election. After a judge is elected under this subsection (c), this chapter concerning the evaluation and retention process shall again apply.

(d) (1) If a majority of those voting on the question vote to retain the candidate, then the candidate is duly elected to the office for the remainder of the term of the predecessor and given a certificate of election.

(2) If a majority or one half (½) of those voting on the question vote to replace the candidate, then a vacancy exists in the office as of September 1 following the regular August election. The governor shall fill the vacancy in the office in accordance with § 17-4-112 or § 17-4-113; however, at the next regular August general election, this office shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. In accordance with § 2-13-203, each political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election. After the office is filled by contested election under this subdivision (d)(2), this chapter concerning the evaluation and retention process shall again apply to the office.

Acts 2009, ch. 517, § 1.

Compiler's Notes. Former part 1, §§ 17-4-101 — 17-4-112, 17-4-114 — 17-4-118 (Acts 1971, ch. 198, §§ 1-12, 14-16; impl. am. Acts 1972, ch 740, § 6; Acts 1973, ch. 265, §§ 1-7; 1974, ch. 433, § 1; 1976, ch. 712, § 1; 1982, ch. 590, § 1; T.C.A., §§ 17-701 — 17-712, 17-714 — 17-716, modified; Acts 1986, ch. 624, §§ 1-4; 1989, ch. 431, § 1; 1993, ch. 66, §§ 37, 38; 1993, ch. 196, §§ 6, 7; 1994, ch. 942, §§ 3-14, 16-20; 1999, ch. 315, §§ 2-10; 2001, ch. 459, §§ 3-8), concerning judicial selection, was

repealed by Acts 2009, ch. 517, § 1, effective July 1, 2009. For provisions concerning judicial nomination, see this part.

Effective Dates. Acts 2009, ch. 517, § 6. July 1, 2009.

Section to Section References. This section is referred to in §§ 17-4-109, 17-4-116, 17-4-201.

Attorney General Opinions. Filling supreme court vacancy after negative retention election vote, OAG 96-117 (9/9/96).

17-4-112. Judicial appointments from nominees from commission — Expiration of terms.

(a) (1) When a vacancy occurs in the office of an appellate court after July 1, 2009, by death, resignation or otherwise, the governor shall fill the vacancy by appointing one (1) of the three (3) persons nominated by the judicial nominating commission, or the governor may require the commission to submit one (1) other panel of three (3) additional nominees. Within sixty (60) days following receipt of the additional panel of nominees, the governor shall fill the vacancy by appointing any one (1) of the six (6) nominees certified by the commission.

(2) After receiving the commission's panel or panels of nominees, but prior to making an appointment pursuant to subdivision (a)(1), the governor shall direct the Tennessee bureau of investigation or other appropriate agencies to perform appropriate financial and criminal background investigations and inquiries of the prospective appointees, and the governor shall review and assess the results of the background investigations and inquiries.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

Acts 2009, ch. 517, § 1.

Compiler's Notes. Former part 1, §§ 17-4-101 — 17-4-112, 17-4-114 — 17-4-118 (Acts 1971, ch. 198, §§ 1-12, 14-16; impl. am. Acts 1972, ch 740, § 6; Acts 1973, ch. 265, §§ 1-7; 1974, ch. 433, § 1; 1976, ch. 712, § 1; 1982, ch. 590, § 1; T.C.A., §§ 17-701 — 17-712, 17-714 — 17-716, modified; Acts 1986, ch. 624, §§ 1-4; 1989, ch. 431, § 1; 1993, ch. 66, §§ 37, 38; 1993, ch. 196, §§ 6, 7; 1994, ch. 942, §§ 3-14, 16-20; 1999, ch. 315, §§ 2-10; 2001, ch. 459, §§ 3-8), concerning judicial selection, was repealed by Acts 2009, ch. 517, § 1, effective July 1, 2009. For provisions concerning judicial nomination, see this part.

Effective Dates. Acts 2009, ch. 517, § 6. July 1, 2009.

Section to Section References. This section is referred to in §§ 17-4-109, 17-4-114, 17-4-115, 17-4-116.

NOTES TO DECISIONS

1. Constitutionality.

1. Constitutionality.

Trial court correctly held that it was bound by the doctrine of stare decisis with respect to plaintiff's general challenge to the constitutionality of the Tennessee Retention Election statutes, T.C.A. § 17-4-101 et seq., and correctly held that the Tennessee Plan was constitutional because the supreme court upheld the constitutionality of the statutes in prior decisions. *Hooker v. Haslam*, 382 S.W.3d 358, 2012 Tenn. App. LEXIS 511 (Tenn. Ct. App. July 27, 2012).

17-4-115. Declaration of candidacy for reelection for full term — Time of filing — Exception — Form of ballot — Rejection of candidate — Appointment.

(a) (1) An incumbent appellate judge who seeks election or re-election for a full eight-year term must qualify by filing with the state election commission a written declaration of candidacy. The declaration must be filed not later than twelve o'clock (12:00) noon prevailing time on the first Thursday in February immediately preceding the end of the term. After timely filing the declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing the declaration of candidacy.

(2) An incumbent appellate judge who seeks election for a full eight-year term but who was appointed to the office after the first Thursday in February before the next regular August election occurring more than thirty (30) days after occurrence of the vacancy that was filled by the incumbent appellate judge must qualify by filing with the state election commission a written declaration of candidacy. The declaration must be filed not later than the first Thursday occurring at least one (1) full week after the appointment. After timely filing the declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing the declaration of candidacy.

(3) Title 2, chapter 5, part 1, does not apply to an election in which an incumbent appellate judge seeks election or re-election for a full eight-year term, unless a contested election is required by subsection (c) or subdivision (d)(2).

(b) (1) If the declaration of candidacy is timely filed, only the name of the candidate, without party designation, shall be submitted to the electorate in this state in the regular August election. Each county election commission of the state shall cause the following to be placed on the ballot:

Shall (*Name of Candidate*) be retained or replaced in office as a Judge of the (*Name of the Court*) ?

_____ Retain

OR

_____ Replace.

(2) If the declaration of candidacy is not timely filed, then the judicial performance

evaluation commission shall not include an evaluation or retention recommendation for the incumbent judge within the final report publicly disclosed pursuant to § 17-4-201(c), and the judge's name shall not be submitted to the electorate.

(c) If the judicial performance evaluation commission makes a recommendation “for replacement” of an incumbent appellate judge but the judge nevertheless files or has filed the declaration of candidacy required by subsection (a), then subdivision (b)(1) shall not be applicable and the eight-year term shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. If the judge's term of office is abbreviated because of death, resignation or removal after the filing of the declaration of candidacy but prior to the third Thursday in May preceding the regular August general election, then the vacancy shall be filled in accordance with § 17-4-112 or § 17-4-113, and no such contested election shall be held. In accordance with § 2-13-203, each political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election, which shall be the regular August election. After a judge is elected under this subsection (c), the provisions of this chapter concerning the evaluation and retention process shall again apply.

(d) (1) If a majority of those voting on the question vote to retain the candidate, then the candidate is duly elected to the office for a full eight-year term and given a certificate of election.

(2) If a majority or one half (1/2) of those voting on the question vote to replace the candidate, then a vacancy exists in the office as of September 1 following the regular August election. The governor shall fill the vacancy in the office in accordance with § 17-4-112 or § 17-4-113; however, at the next regular August general election, this office shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. In accordance with § 2-13-203, each political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election. After the office is filled by contested election under this subdivision (d)(2), the provisions of this chapter concerning the evaluation and retention process shall again apply to the office.

Acts 2009, ch. 517, § 1.

Compiler's Notes. Former part 1, §§ 17-4-101 — 17-4-112, 17-4-114 — 17-4-118 (Acts 1971, ch. 198, §§ 1-12, 14-16; impl. am. Acts 1972, ch 740, § 6; Acts 1973, ch. 265, §§ 1-7; 1974, ch. 433, § 1; 1976, ch. 712, § 1; 1982, ch. 590, § 1; T.C.A., §§ 17-701 — 17-712, 17-714 — 17-716, modified; Acts 1986, ch. 624, §§ 1-4; 1989, ch. 431, § 1; 1993, ch. 66, §§ 37, 38; 1993, ch. 196, §§ 6, 7; 1994, ch. 942, §§ 3-14, 16-20; 1999, ch. 315, §§ 2-10; 2001, ch. 459, §§ 3-8), concerning judicial selection, was repealed by Acts 2009, ch. 517, § 1, effective July 1, 2009. For provisions concerning judicial nomination, see this part.

Effective Dates. Acts 2009, ch. 517, § 6. July 1, 2009.

Section to Section References. This section is referred to in §§ 17-4-109, 17-4-116, 17-4-201.

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17-4-116. Failure to seek reelection — Nomination and appointment subject to election — Exception — Rejection of candidate — Appointment.

(a) If an incumbent appellate court judge, whether appointed or elected, fails to file a declaration of candidacy for election to an unexpired term or to a full eight-year term within the prescribed time, or if the judge withdraws as a candidate after receiving a recommendation “for retention” from the judicial performance evaluation commission and filing the required declaration of candidacy, then a vacancy is created in the office upon expiration of the incumbent's term effective September 1. In this event, the vacancy shall be filled by the governor in accordance with § 17-4-112 or § 17-4-113. The appointment is subject to the action of the electorate in the next regular August election. The appointee shall file a declaration of candidacy and be voted on as provided in § 17-4-114 and § 17-4-115.

(b) If the vacancy occurs more than thirty (30) days before the regular August election preceding the end of the term, the appointee is subject to election as provided in § 17-4-114 and § 17-4-115.

(c) (1) If a majority of those voting on the question vote to retain the candidate, then candidate is duly elected to the office for the remainder of the unexpired term or a full eight-year term, as the case may be, beginning September 1, and the candidate shall be given a certificate of election.

(2) If a majority or one half (1/2) of those voting on the question vote to replace the candidate, then a vacancy exists in the office as of September 1 following the regular August election. The governor shall fill the vacancy in the office in accordance with § 17-4-112 or § 17-4-113; however, at the next regular August general election, this office shall be filled by means of a contested election conducted in accordance with general election law set forth in title 2. In accordance with § 2-13-203, each political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election. After the office is filled by contested election under this subdivision (c)(2), the provisions of this chapter concerning the evaluation and retention process shall again apply to the office.

(d) If the vacancy occurs less than thirty-one (31) days before the regular August election, the appointee shall not be voted on in the election and shall take office on September 1. The term of office shall be as provided in § 17-4-112(b).

Acts 2009, ch. 517, § 1.

Compiler's Notes. Former part 1, §§ 17-4-101 — 17-4-112, 17-4-114 — 17-4-118 (Acts 1971, ch. 198, §§ 1-12, 14-16; impl. am. Acts 1972, ch 740, § 6; Acts 1973, ch. 265, §§ 1-7; 1974, ch. 433, § 1; 1976, ch. 712, § 1; 1982, ch. 590, § 1; T.C.A., §§ 17-701 — 17-712, 17-714 — 17-716, modified; Acts

1986, ch. 624, §§ 1-4; 1989, ch. 431, § 1; 1993, ch. 66, §§ 37, 38; 1993, ch. 196, §§ 6, 7; 1994, ch. 942, §§ 3-14, 16-20; 1999, ch. 315, §§ 2-10; 2001, ch. 459, §§ 3-8), concerning judicial selection, was repealed by Acts 2009, ch. 517, § 1, effective July 1, 2009. For provisions concerning judicial nomination, see this part.

Effective Dates. Acts 2009, ch. 517, § 6. July 1, 2009.

Voters with Disabilities

Did You Know?

Every polling place in Tennessee is equipped with an accessible voting machine that allows voters with disabilities to vote independently and privately.

What if I Want Assistance When Voting?

Voters have the right to have anyone of their choice, except a candidate or poll watcher, assist them during the voting process. If you want assistance, please ask any election official during the voting process.

What if I am a Voter With a Disability Who Does Not Have an Acceptable Photo ID?

- Any person with a physical or mental disability that substantially limits one or more life activities and who does not have a Tennessee driver license may obtain a free photo ID.
- To obtain this free photo ID, you must take a letter from a Tennessee physician verifying your disability and a document that verifies your identity to a participating driver service center.
- For questions regarding what documents are acceptable to verify one's identity, call the Department of Safety at 1-866-849-3548.

Need More Information?

For more information regarding opportunities for voters with disabilities, contact one of the following agencies:

Tennessee Division of Elections

1-877-850-4959

Disability Law & Advocacy Center of Tennessee

1-800-342-1660

Tennessee Disability Coalition

1-888-643-7811



Tennessee Secretary of State
Division of Elections
312 Rosa L. Parks Avenue
7th Floor, William R. Snodgrass Tower
Nashville, TN 37243

2014

TENNESSEE VOTER INFORMATION GUIDE



Vote Early

and skip the line

Special Section Inside for Voters with Disabilities

Division of Elections

Tennessee Secretary of State Tre Hargett

Every Vote Counts

The Division of Elections is committed to ensuring that every eligible Tennessee voter has the opportunity to cast a ballot. We hope that the information in this guide will help you as you prepare to vote in upcoming elections.

TIP: Judicial races in August will cause the ballot to be longer than usual, but voting early can help you avoid potential long lines.

Important Dates for the 2014 Election Cycle

Election Date	Early Voting Period
May 6, 2014 County Primary (See note below)	April 16, 2014 through May 1, 2014
August 7, 2014 State Primary & County General Election	July 18, 2014 through August 2, 2014
November 4, 2014 State and Federal General Election	October 15, 2014 through October 30, 2014

Note: Not all counties will hold a primary election in May. This determination will be made by the local political parties.

Poll Workers Needed

Would you like the opportunity to get involved in the election process by performing an invaluable civic duty for which you will be paid? Every county needs diligent poll officials committed to working during early voting and on Election Day. Contact your local county election commission for more information on how you may be able to help.

Photo ID Law

Voters who vote in person during early voting or on Election Day must present a photo ID issued by the federal or Tennessee state government. These IDs may be current or expired. Examples include:

- Tennessee driver license with your photo;
- Tennessee Department of Safety photo ID;
- Tennessee gun carry permit with your photo;
- United States Military photo ID;
- United States Passport; or
- Any other photo ID issued by the federal or Tennessee state government.

College student IDs and photo IDs issued by cities, counties, and other states will not be accepted.

Who is Exempt?

- Voters who vote absentee by mail;
- Voters who live in a licensed nursing home or assisted living center and vote at the facility;
- Voters who are hospitalized;
- Voters with religious objection to being photographed; or
- Voters who are indigent and unable to obtain a photo ID without paying a fee.

What if I Do Not Have a Photo ID?

If you do not have an acceptable form of identification, you may obtain a free photo ID for voting purposes from the Tennessee Department of Safety at any participating driver service center. Learn more by calling the Department of Safety at 1-866-849-3548.

What if My Polling Place is Not Accessible?

Voters whose Election Day polling places are not accessible may vote in one of three ways:

- You can vote during the early voting period at the county election commission office (or satellite site, if available);
- You can file an affidavit with the county election commission office stating that your polling place is not accessible and you want to vote at the county election commission office on Election Day. The affidavit must be filed at least ten (10) days before Election Day; or
- You can request an absentee ballot.

Honor Vote Program

Secretary Hargett started the Tennessee Honor Vote program in 2012. The program was an overwhelming success, having received nearly 3,500 submissions, and will be returning for the 2014 election cycle.

The program gives Tennesseans an opportunity to dedicate their vote to active-duty military personnel and veterans. Learn more about the program at www.GoVoteTN.com/honor.



Other Questions?

Call or visit your county election commission or visit our website at www.GoVoteTN.com.