Attorney General Opinions Municipal Elections 2015

Municipal Elections Certification Training

Presented by: Reese Partridge/Liz Bolz
Special Assistant Attorneys General
Mississippi Attorney General's Office

Jim Hood, Attorney General

Party candidates.

- In order for a political party to have nominees whose names are to be placed on the municipal general election ballot, there must be either a permanent or temporary municipal executive committee in place. (Gilless, April 1, 2005).
- Note: Since the issuance of this opinion, Section 23-15-313 has been amended to provide that if no municipal executive committee is selected or otherwise formed, the county executive committee may serve as the temporary municipal executive committee and exercise all of the duties of the municipal executive committee for the municipal primary election.

Removal of executive committee members.

- There is no authority for a municipal party executive committee to remove one of its members on its own motion. If a member of such committee dies, is convicted of a felony, moves out of the municipality or is otherwise disqualified by order of a court of competent jurisdiction or by operation of law, the remaining members would be required to declare a vacancy and fill it in accordance with Section 23-15-171. (Martin, August 5, 2005).

Poll book preparation.

- The statutory provision whereby the county registrar prepares poll books and the county election commissioners prepare the registration books of each municipality located within the county pursuant to an agreement between the county and each municipality in the county has gone back and forth between being discretionary and mandatory. At the time this opinion was issued the provision was discretionary. Since the issuance of the opinion, the Legislature amended Section 23-15-153. The amendment retained language that requires that the county election officials prepare the poll books and registration books of each municipality within the county. That language, as the latest expression of legislative intent, controls over the language in Section 23-15-137 which still makes it discretionary with the municipal governing authorities whether to enter such an agreement with the county election officials. (Hafer, May 30, 2008).

Candidate who is child of municipal election commissioner.

- Municipal election commissioner may continue to serve even though her son is a candidate for a municipal office. She should recuse herself from participation in any decisions with respect to her son's candidacy and election results. (Ratcliff, March 10, 2009).

Municipal clerk's husband appointed election commissioner.

- Board of aldermen may appoint municipal clerk's husband to the position of election commissioner. (Boren, May 2, 2008).

Determination of alderman's residency.

- It is a factual determination to be made by the Mayor and Board of Aldermen, subject to judicial review, as to whether an alderman has moved out of the jurisdiction from which he was elected thereby vacating his office. At the time of qualifying, it is the responsibility of the appropriate party executive committee to make factual determinations on questions of residency of candidates in primary elections and the municipal election commission to make such determinations in special and general elections. (Neely, November 21, 2008).

Residency of voter.

- It is the responsibility of the municipal election commission to make factual determinations on questions of residency of voters displaced by natural disasters based on guidelines established by the Mississippi Supreme Court. The general rule is that "domicile, once established, continues until removal to another locality with intent to remain there and abandonment of the old domicile without intent to return." (Dulaney, November 2, 2011).

Residency of candidates.

- The general rule on residency requirements of candidates for municipal office is that one must have established residency within the corporate limits of the municipality, have registered to vote by the time the appropriate election officials meet to rule on candidate qualifications, and will have been so registered for thirty (30) days as of the date of the general or special election in which he could be elected. The qualifications of party nominees and independent candidates in a general election must be determined by the municipal election commission. (…) Hinds County Election Commission v. Brinston, 671 So.2d 667 (Miss. 1996). (Adams, March 6, 2012).

Candidate substitution.

- If party nominee is disqualified, the municipal party executive committee could nominate a substitute nominee pursuant to Section 23-15-317 which authorizes such substitution when a nominee dies, is removed after his nomination or withdraws or resigns from his candidacy for legitimate non-political reason and such vacancy in nomination occurs between the primary election and the ensuing general election. (McInnis, April 13, 2005).

Death of unopposed party candidate.

- When an unopposed candidate has been declared the party nominee and then dies prior to the primary election, the appropriate executive committee may name a substitute nominee. (Clark, March 11, 1999)

Municipal election commissioner compensation.

- Compensation of municipal election commissioners in code charter municipalities is set by the governing authorities. Special charter municipalities may have provision in their charter that sets such compensation. (Turnage, September 15, 2006).

Refusing to place name on ballot.

- A municipal election commission may not lawfully refuse to place the name of a party nominee on a general election based on an irregularity in the process of qualifying as a candidate in a party primary provided he meets all the qualifications to hold the office he seeks. (White, November 22, 2006).

Sufficiency of candidate petition.

- If signatures on an independent candidate's petition for alderman representing a ward appear on pages which lack the ward of the office sought or which misstate the date of the election, those signatures may not be counted toward the number of signatures required by Section 23-15-361. (Sorrell, March 23, 2009).

Number of municipal election commissioners.

- Pursuant to Section 23-15-221 a municipality with less than 20,000 inhabitants shall have three (3) election commissioners. There is no authority for such municipality to appoint additional commissioners. There is no authority for such municipality to appoint "alternate" election commissioners. (Miller, June 12, 2009).

Technical Advisors

- Section 23-15-219 authorizes a municipal election commission, with the approval of the municipal governing authorities, to employ technical advisors to assist the commissioners in the discharge of their duties. (Brock, May 31, 2013).

Qualifying Petitions

- Qualifying petitions of independent candidates filed with municipal clerks are public records and may be obtained by anyone pursuant to the provisions of the Mississippi Public Records Act of 1983. (Edwards, May 3, 2013).

Party Executive Committee

- If a party wishes to conduct a primary, it is the party's obligation to inform the municipal clerk of that decision in writing in order for potential candidates to know what options are available to them in seeking municipal elective office.
- Clerk should be notified prior to the qualifying deadline. (Ashford, April 22, 2013).

Thank you.

Liz Bolin
Special Assistant Attorney General
601 359 3680
lbolt@ago.state.ms.us

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