

# STATE OF MISSISSIPPI



**OFFICE OF THE STATE AUDITOR  
STACEY E. PICKERING**

**ELECTION COMMISSIONERS'  
COMPENSATION**

**SECRETARY OF STATE'S COUNTY ELECTION  
COMMISSIONER ORIENTATION**

JANUARY 21, 2015

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STATUTORY DAYS FOR COUNTY ELECTION COMMISSIONERS

county population	# of training days for election commissioners	days allowed for list maint & conducting regular elections	days allowed for conducting training for pollworkers	days allowed for conducting extra elections	days allowed for list maint during extra elections	days allowed for list maint & conducting run-offs
source: MCA	23-15-211	23-15-153(2)	23-15-239	23-15-153(2)	23-15-153(4)	23-15-153(5)
0-14,999	12	50	5	15	10	14
15,000-29,999	12	75	8	25	10	14
30,000-69,999	12	100	10	35	10	14
70,000-89,999	12	125	12	45	10	14
90,000-169,999	12	150	15	55	10	14
170,000-199,999	12	175	18	65	10	14
200,000-224,999	12	190	19	75	10	14
225,000-249,000	12	215	22	85	10	14
250,000-274,999	12	230	13	95	10	14
275,000 & more	12	240	14	105	10	14

West's Annotated Mississippi Code  
Title 23. Elections  
Chapter 15. Mississippi Election Code (Refs & Annos)  
Article 3. Voter Registration  
Subarticle F. Purging

Miss. Code Ann. § 23-15-153

§ 23-15-153. Revising books, compensation of commissioners; certification

Currentness

(1) At the following times, the commissioners of election shall meet at the office of the registrar and carefully revise the registration books and the pollbooks of the several voting precincts, and shall erase from those books the names of all persons erroneously on the books, or who have died, removed or become disqualified as electors from any cause; and shall register the names of all persons who have duly applied to be registered and have been illegally denied registration:

(a) On the Tuesday after the second Monday in January 1987 and every following year;

(b) On the first Tuesday in the month immediately preceding the first primary election for congressmen in the years when congressmen are elected;

(c) On the first Monday in the month immediately preceding the first primary election for state, state district legislative, county and county district offices in the years in which those offices are elected; and

(d) On the second Monday of September preceding the general election or regular special election day in years in which a general election is not conducted.

Except for the names of those persons who are duly qualified to vote in the election, no name shall be permitted to remain on the registration books and pollbooks; however, no name shall be erased from the registration books or pollbooks based on a change in the residence of an elector except in accordance with procedures provided for by the National Voter Registration Act of 1993 that are in effect at the time of such erasure. Except as otherwise provided by Section 23-15-573, no person shall vote at any election whose name is not on the pollbook.

(2) Except as provided in this section, and subject to the following annual limitations, the commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks as required in subsection (1) of this section:

(a) In counties having less than fifteen thousand (15,000) residents according to the latest federal decennial census, not more than fifty (50) days per year, with no more than fifteen (15) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(b) In counties having fifteen thousand (15,000) residents according to the latest federal decennial census but less than thirty thousand (30,000) residents according to the latest federal decennial census, not more than seventy-five (75) days per year, with no more than twenty-five (25) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(c) In counties having thirty thousand (30,000) residents according to the latest federal decennial census but less than seventy thousand (70,000) residents according to the latest federal decennial census, not more than one hundred (100) days per year, with no more than thirty-five (35) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(d) In counties having seventy thousand (70,000) residents according to the latest federal decennial census but less than ninety thousand (90,000) residents according to the latest federal decennial census, not more than one hundred twenty-five (125) days per year, with no more than forty-five (45) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(e) In counties having ninety thousand (90,000) residents according to the latest federal decennial census but less than one hundred seventy thousand (170,000) residents according to the latest federal decennial census, not more than one hundred fifty (150) days per year, with no more than fifty-five (55) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(f) In counties having one hundred seventy thousand (170,000) residents according to the latest federal decennial census but less than two hundred thousand (200,000) residents according to the latest federal decennial census, not more than one hundred seventy-five (175) days per year, with no more than sixty-five (65) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(g) In counties having two hundred thousand (200,000) residents according to the latest federal decennial census but less than two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census, not more than one hundred ninety (190) days per year, with no more than seventy-five (75) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(h) In counties having two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census but less than two hundred fifty thousand (250,000) residents according to the latest federal decennial census, not more than two hundred fifteen (215) days per year, with no more than eighty-five (85) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(i) In counties having two hundred fifty thousand (250,000) residents according to the latest federal decennial census but less than two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census, not more than two hundred thirty (230) days per year, with no more than ninety-five (95) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than two hundred forty (240) days per year, with no more than one hundred five (105) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year.

(3) In addition to the number of days authorized in subsection (2) of this section, the board of supervisors of a county may authorize, in its discretion, the commissioners of election to receive a per diem in the amount provided for in subsection (2) of this section, to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks as required in subsection (1) of this section, for not to exceed five (5) days.

(4)(a) The commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, not to exceed ten (10) days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks prior to any special election. For purposes of this paragraph, the regular special election day shall not be considered a special election. The annual limitations set forth in subsection (2) of this section shall not apply to this paragraph.

(b) The commissioners of election shall be entitled to receive a per diem in the amount of One Hundred Fifty Dollars (\$150.00), to be paid from the county general fund, for the performance of their duties on the day of any general or special election. The annual limitations set forth in subsection (2) of this section shall apply to this paragraph.

(5) The commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, not to exceed fourteen (14) days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in the revision of the registration books, pollbooks and in the conduct of a runoff election following either a general or special election.

(6) The commissioners of election shall be entitled to receive only one (1) per diem payment for those days when the commissioners of election discharge more than one (1) duty or responsibility on the same day.

(7) The county registrar shall prepare the pollbooks and the county commissioners of election shall prepare the registration books of each municipality located within the county pursuant to an agreement between the county and each municipality in the county. The county commissioners of election and the county registrar shall be paid by each municipality for the actual cost of preparing registration books and pollbooks for the municipality and shall pay each county commissioner of election a per diem in the amount provided for in subsection (2) of this section for each day or period of not less than five (5) hours accumulated over two (2) or more days the commissioners are actually employed in preparing the registration books for the municipality, not to exceed five (5) days. The county commissioners of election and county registrar shall provide copies of the registration books and pollbooks to the municipal clerk of each municipality in the county. The municipality shall pay the county registrar for preparing and printing the pollbooks. A municipality may secure "read only" access to the Statewide Centralized Voter System and print its own pollbooks using this information; however, county commissioners of election shall remain responsible for preparing registration books for municipalities and shall be paid for this duty in accordance with this subsection.

(8) County commissioners of election who perform the duties of an executive committee with regard to the conduct of a primary election under a written agreement authorized by law to be entered into with an executive committee shall receive per diem as provided for in subsection (2) of this section. The days that county commissioners of election are employed in the conduct of a primary election shall be treated the same as days county commissioners of election are employed in the conduct of other elections.

(9) Every commissioner of election shall sign personally a certification setting forth the number of hours actually worked in the performance of the commissioner's official duties and for which the commissioner seeks compensation. The certification must be on a form as prescribed in this subsection. The commissioner's signature is, as a matter of law, made under the commissioner's oath of office and under penalties of perjury.

The certification form shall be as follows:

**COUNTY ELECTION COMMISSIONER**

**PER DIEM CLAIM FORM**

NAME: ..... COUNTY: .....

ADDRESS: ..... DISTRICT: .....

CITY: ..... ZIP: .....

DATE	BEGINNING	ENDING	PURPOSE	APPLICABLE	ACTUAL	PER DIEM
WORKED	TIME	TIME	OF	MS CODE	HOURS	DAYS
			WORK	SECTION	WORKED	EARNED
.....						
.....						
.....						

TOTAL NUMBER OF PER DIEM DAYS EARNED

EXCLUDING ELECTION DAYS .....

PER DIEM RATE PER DAY EARNED x 84.00

TOTAL NUMBER PER DIEM DAYS EARNED

FOR ELECTION DAYS .....

PER DIEM RATE PER DAY EARNED x 150.00

TOTAL AMOUNT OF PER DIEM CLAIMED \$.....

I understand that I am signing this document under my oath as a commissioner of election and under penalties of perjury.

I understand that I am requesting payment from taxpayer funds and that I have an obligation to be specific and truthful as to the amount of hours worked and the compensation I am requesting.

Signed this the ..... day of ....., .....

.....  
Commissioner's Signature

When properly completed and signed, the certification must be filed with the clerk of the county board of supervisors before any payment may be made. The certification will be a public record available for inspection and reproduction immediately upon the oral or written request of any person.

Any person may contest the accuracy of the certification in any respect by notifying the chairman of the commission, any member of the board of supervisors or the clerk of the board of supervisors of such contest at any time before or after payment is made. If the contest is made before payment is made, no payment shall be made as to the contested certificate until the contest is finally disposed of. The person filing the contest shall be entitled to a full hearing, and the clerk of the board of supervisors shall issue subpoenas upon request of the contestor compelling the attendance of witnesses and production of documents and things. The contestor shall have the right to appeal de novo to the circuit court of the involved county, which appeal must be perfected within thirty (30) days from a final decision of the commission, the clerk of the board of supervisors or the board of supervisors, as the case may be.

Any contestor who successfully contests any certification will be awarded all expenses incident to his contest, together with reasonable attorney's fees, which will be awarded upon petition to the chancery court of the involved county upon final disposition of the contest before the election commission, board of supervisors, clerk of the board of supervisors, or, in case of an appeal, final disposition by the court. The commissioner against whom the contest is decided shall be liable for the payment of the expenses and attorney's fees, and the county shall be jointly and severally liable for same.

(10) Any commissioner of election who has not received a certificate issued by the Secretary of State pursuant to Section 23-15-211 indicating that the commissioner of election has received the required elections seminar instruction and that the commissioner of election is fully qualified to conduct an election, shall not receive any compensation authorized by this section, Section 23-15-491 or Section 23-15-239.

#### **Credits**

Laws 1986, Ch. 495, § 43; Amended by Laws 1987, Ch. 499, § 15; Laws 1988, Ch. 389, § 1; Laws 1993, Ch. 510, § 1; Laws 1994, Ch. 590, § 2, eff. July 11, 1994; Laws 2000, Ch. 430, § 4, eff. August 11, 2000; Laws 2001, Ch. 414, § 1, eff. June 20, 2001; Laws 2002, Ch. 444, § 1, eff. July 1, 2002. Amended by Laws 2004, Ch. 305, § 12, eff. July 12, 2004; Laws 2006, Ch. 592, § 2, eff. June 29, 2006; Laws 2007, Ch. 434, § 4, eff. June 15, 2007; Laws 2010, Ch. 377, § 1, eff. June 21, 2010; Laws 2013, Ch. 413 (S.B. 2238), § 1; Laws 2013, Ch. 456 (S.B. 2311), § 1.

#### **Editors' Notes**

#### **EFFECTIVE DATE**

<This section was amended effective upon effectuation under Section 5 of the Voting Rights Act of 1965. See *Shelby County, Ala. v. Holder*, 2013, 133 S.Ct. 2612, 186 L.Ed.2d. 651. >

#### **Relevant Notes of Decisions (38)**

[View all 83](#)

Notes of Decisions listed below contain your search terms.

#### **Construction and application**

Training days such as are required by Sections 23-15-531.7 and 23-15-491 are separate from the revising and purging the poll books under Section **23-15-153**. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

The amendment of Section **23-15-153** by Laws 2006, Ch. 592 (Senate Bill 2291) does not change that basic role of the county board of election commissioners as described in that Section. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

Section **23-15-153** does not encompass primary elections because county election commissioners have no duties in the conduct of primaries, however, the revision of the poll books for a primary election pursuant to Section 23-15-127 would entitle a county election commissioner to be compensated pursuant to Section **23-15-153** subject to the annual limitation specified therein. Op.Atty.Gen. No. 2000-0594, MeLcod, October 13, 2000.

The Municipality is not required to obtain the approval of the United States Department of Justice before any changes are made to the Voting Rolls. The proper guidelines to follow are found in Section **23-15-153**. Counties are required to make submissions of any plan to purge for non-voting pursuant to Section 23-15-159. Op.Atty.Gen. No. 93-0593, Zebert, Sept. 15, 1993.

#### **Construction with other laws**

Based on the language of Sections **23-15-153**, 23-15-239, and 23-15-491, if the Legislature had intended for maximum number of per diem days which can be claimed to apply to the entire group of five election commissioners, that number to be allocated among them, then the statutes would have read the "election commission shall be entitled to receive a per diem in the amount of Eighty-four dollars (\$84.00)." Whereas in these Sections, the constituent members of the election commission are the "commissioners of election," while a reference to the body as a whole is normally to "the election commission." Also, the fact the "Per Diem Claim Form" printed in Section **23-15-153** (7) makes no reference or accommodation to the fact that if the per diem day maximum applied to the commission as a whole, then the per diem days would have to be somehow allocated among the election commission members. Accordingly, where those Sections refer to the maximum number of per diem days which the 'commissioners of election' are entitled to claim, those maximums apply to individual election commissioners and not to the election commission as a body. Op.Atty.Gen. No. 2008-00470, Hafter, August 29, 2008, 2008 WL 4140525.

While state law governs the purging of names from the voter registration books and poll books, Section **23-15-153** specifically requires compliance with the National Voter Registration Act of 1993 (NVRA) when purging is based on a change of residence. Op.Atty.Gen. No. 2006-00620, Jones, December 8, 2006, 2006 WL 4038563.

#### **Meeting times**

Pursuant to Section **23-15-153**, names may be purged from the voter rolls for purposes of state and local elections without regard to the federal deadline; however, voters whose names are purged pursuant to state law after the August 7 deadline will be allowed to vote for federal offices only. Op.Atty.Gen. No. 96-0595, Allsup, Aug. 23, 1996.

#### **Minutes of meetings**

Since Section **23-15-153** requires county election commissions to meet in the office of the county registrar (circuit clerk) to revise the voter registration records, the minutes of the commissions should be available as a public record in the office of the circuit clerk. Op.Atty.Gen. No. 2008-00086, Robinson, March 14, 2008, 2008 WL 965680.

#### **Location of records**

There is no statutory provision that requires a county election commission to file its minutes in the office of the chancery clerk. Section 23-15-153 provides that a county election commission is required to perform its purging activities in the office of the registrar, who by Section 23-15-211(1) is the circuit clerk. Also, the circuit clerk is required by Sections 23-15-225 and 23-15-235 to assist the election commission in the performance of its duties. Therefore, the minutes of a county election commission should be available as a public record in the office of the circuit clerk. Op.Atty.Gen. No. 2006-00170, Mitchell, December 13, 2006, 2006 WL 4038583.

#### **Method of purging rolls**

Even where there presently is no such book compiling such matters, the election commission is still responsible under Section 23-15-153(1) for removing disenfranchised felons from the voter rolls from other sources, such as the docket book in this office that contains the felony criminal cases before our circuit court. Furthermore, Section 23-15-19 requires the circuit clerk as county registrar to erase from the registration records the name of any person convicted of any disenfranchising crime. Op.Atty.Gen. No. 2003-0555, Allen, October 24, 2003.

The procedures for purging voter rolls as described in Section 23-15-153, apply to Municipal Voting Rolls; and, there are no separate guidelines established specifically for Municipal Voting Rolls. Op.Atty.Gen. No. 93-0593, Zebert, Sept. 15, 1993.

The voter rolls used in municipal elections must accurately reflect only the names of persons eligible to vote in said elections. Whether the municipal election commission chooses to work from the existing municipal rolls or adopt the applicable portion of the county rolls as the official municipal rolls, proper purging as required by Section 23-15-153 is essential. Op.Atty.Gen. No. 93-0498, Balch, July 14, 1993.

The Election Commissioners may lawfully use mass mailing to acquire information for purging the voter rolls pursuant to Section 23-15-153 since a municipality may purge its voter registration books by making a factual determination that a voter does not reside at the address listed on his or her registration; however, future legislation might require that those persons whose postcards come back as undeliverable be placed on an inactive list for a period of two successive federal elections prior to being removed from the registration books. Op.Atty.Gen. No. 98-149, Exum-Petty, March 20, 1998.

#### **Change of residency**

Pursuant to Section 23-15-153, a county election commission has the duty to remove the names of individuals who have established residency outside the county from the voter registration records. Op.Atty.Gen. No. 94-0249, Elliott, May 25, 1994.

#### **Compensation, generally**

There is no state statute setting the compensation of municipal election commissioners. Assuming that said compensation is not specifically stated in the Special Charter of the City and that a section of that charter relating to compensation of officers is applicable, the governing authorities may lawfully set the compensation of the municipal election commissioners at the same rate and within the guidelines established by Section 23-15-153 for county election commissioners. Op.Atty.Gen. No. 2006-00455, Turnage, September 15, 2006, 2006 WL 3147015.

Section 23-15-224 specifically authorizes compensation for county registrars who assist party executive committees in connection with a primary election subject to the limitations set forth in Section 23-15-153. Therefore, a Circuit Clerk may claim the same number of statutory days for assisting the county executive committees as they claim for assisting the county election commission. Op.Atty.Gen. No. 2006-00191, Mitchell, May 12, 2006, 2006 WL 1966801.

The demonstration of DRE voting machines in accordance with Section 23-15-531.7 constitutes an integral part of the conduct of an election by a county election commission. Therefore, individual county election commissioners are entitled to per diem compensation pursuant to Section **23-15-153** for conducting such demonstrations. Op.Atty.Gen. No. 2006-0065, Robinson, February 24, 2006, 2006 WL 1900661.

#### **Per diem--In general**

Where Sections **23-15-153**, 23-15-239, and 23-15-491 refer to the maximum number of per diem days which the "commissioners of election" are entitled to claim, those maximums apply to individual election commissioners and not to the election commission as a body. Op.Atty.Gen. No. 2008-00470, Hafter, August 29, 2008, 2008 WL 4140525.

If the facts are that the party executive committee actually programmed the voting machines and the circuit clerk provided assistance in such programming, the circuit clerk, pursuant to Section 23-15-225(3), would be entitled to claim per diem for each day or period of not less than five (5) hours accumulated over two or more days the clerk engaged in such activity subject to the limitation on days set forth in Section **23-15-153**. Op.Atty.Gen. 2008-00289, Dulancy, June 13, 2008, 2008 WL 2687397.

The delivery of the DRE units to polling places for special and general elections is a statutory duty of the county election commissioners that constitutes a part of the duties for which they may claim a per diem subject to the provisions and limitations of Section **23-15-153** without prior approval of the board of supervisors. Op.Atty.Gen. No. 2008-00086, Robinson, March 14, 2008, 2008 WL 965680.

Individual county election commissioners are entitled to per diem compensation pursuant to Section **23-15-153** for conducting demonstration of the new electronic voting machines in accordance with Section 23-15-531.7. However, election commissioners must insure that they properly allocate their days in a manner that will allow them to properly perform all other duties relating to the revision of the registration books and poll books and the proper conduct of elections. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

Mandatory demonstrations of voting machines are an integral part of the conduct of an election and that commissioners giving those demonstrations are entitled to per diem compensation as provided in Section **23-15-153** subject to the limitation on days set forth therein. However, Section **23-15-153** (2) provides that the per diem of \$70.00 is for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election. Op.Atty.Gen. No. 2006-00196, Wilemon, May 26, 2006, 2006 WL 1966825.

Where, due to a challenge of a sheriff's election and the judicial ordering of a recount, the election commissioners have exhausted the annual 75 days allotment, there is nothing in the statutes that would allow a county board of supervisors to authorize per diem for election commissioners for days in excess of that provided for by Section **23-15-153**. The mandate of the court must be met even if it means the commissioners must work beyond normal hours each of their remaining days. Op.Atty.Gen. No. 2004-0594, Porter, December 10, 2004.

The code sections cited in Section 23-15-266 authorize agreements between clerks or election commissions and party executive committees to train poll workers, appoint poll workers, distribute ballot boxes, have ballots printed, distribute ballots and/or receive and canvass election returns. Performing one or more of these duties in connection with primary elections does not constitute performing official duties of a county election commission for which per diem is authorized pursuant to Section **23-15-153** or any other statute. However, such agreements may contain provisions whereby the executive committee agrees to compensate commissioners, although Section 23-15-299(6) restricts the use of qualifying fees collected by party executive committees to the reimbursement of travel expenses of its members and its secretary and a salary for the secretary. Op.Atty.Gen. No. 2001-0638, Robertson, October 12, 2001.

County election commissioners are entitled to claim per diem days for revising the registration books and pollbooks during calendar year 2001 up to the maximum number authorized by House Bill 685 (Laws 2001, Ch. 414, amending Section 23-15-153) even though the new law only became effective on June 13, 2001 provided that such purging is necessary and the work is performed and documented as required by law. Per diem days authorized and lawfully claimed for special elections prior to June 13, such as the flag election, do not count against the total days authorized under the new law. Op.Atty.Gen. No. 2001-0598, Scott, September 21, 2001.

The number of per diem days county election commissioners may lawfully claim is that prescribed by House Bill 685 (Laws 2001, Ch. 414, amending Section 23-15-153), based on the population figures of the 2000 federal decennial census provided that all hours worked are actually required, performed and documented as required by law. There is no requirement to pro-rate the number of days for calendar year 2001 between the "old law" and the "new law", and per diem days specifically authorized and lawfully claimed for special elections prior to June 13 do not count against the total days authorized under the new law. Op.Atty.Gen. No. 2001-0598, Scott, September 21, 2001.

The statutory provisions in effect on April 17, 2001 are controlling as to the number of per diem days county election commissioners may lawfully claim. Therefore, the commissioners of a county with 30,000 qualified electors on April 17, 2001 would be entitled to claim a maximum of 45 days (35 days for conducting the flag election and 10 days for revising the poll books for a special election). House Bill 685, (Laws 2001, c. 414, amending Section 23-15-153) did not grant any additional days for the April 17 flag referendum or any other election conducted prior to June 13. Op.Atty.Gen. No. 2001-0598, Scott, September 21, 2001.

Any per diem earned for work by county election commissioners in connection with revising primary election poll books would count against the annual limitation set forth in Section 23-15-153, and no per diem pursuant to Section 23-15-153 could be earned with regard to a primary election because county election commissioners have no duties other than revising poll books in the conduct of primaries. Op.Atty.Gen. No. 2000-0594, McLeod, October 13, 2000.

The commissioners are entitled to compensation for a certain number of days actually employed in the performance of their duties in the conduct of an election under Section 23-15-153(4). The number of days that election commissioners are allowed to be compensated for their work in revising the registration books and pollbooks annually is set by § 23-15-153(2); however, there is no authority for increasing the statutory number of days authorized by said statute. Op.Atty.Gen. No. 94-0493, Crawford, Aug. 10, 1994.

Section 25-3-69 and not Section 23-15-153, governs the amount of the per diem to be paid the election commissioners for the first day of attendance at the annual election training seminar. Section 23-15-211(4) specifically states that the per diem to be paid the election commissioners by the board of supervisors is for only the first day of their attendance at the election training seminar with no compensation for subsequent days of attendance. Op.Atty.Gen. Gex, March 2, 1989.

#### --- Carry-over, per diem

As to whether, with regard to primary elections, the per diem compensation of a county election commissioner would count against the total per diem compensation allowed under Section 23-15-153, a per diem may be earned in one of two ways. First, a period of not less than five (5) hours during a particular day would entitle a commissioner to a per diem. Second, a period of less than five (5) hours worked during a particular day may be carried forward and added to other periods of less than five (5) hours. Once a total of five (5) hours is accumulated over a period of two (2) or more days, the commissioner would also be entitled to a per diem. Op.Atty.Gen. No. 2000-0594, McLeod, October 13, 2000.

#### Training events

The Election Commissioners Association of Mississippi (ECAM) could lawfully sponsor one or more training events for its members, and election commissioners attending a training event sponsored by ECAM would be entitled to receive a per diem as prescribed by Section 23-15-153 provided a training certificate from ECAM is received and provided the six day limit is not exceeded. Op.Atty.Gen. No. 2002-0026, Phillips, February 1, 2002.

#### **Travel expenses**

There is no authority for county election commissioners to be reimbursed for travel expenses on election days or for the payment of mileage in addition to the per diem authorized by Section 23-15-153. Election commissioners may be reimbursed for travel expenses when they perform duties other than purging registration books and conducting elections, provided it is first approved by the board of supervisors in accordance with Section 25-3-41. Op.Atty.Gen. No. 2001-0062, Lamar County Election Commission, February 16, 2001.

#### **Redistricting**

There is no authority for a board of supervisors to compensate commissioners for redistricting work over and above their regular "purging" duties for which compensation is provided for in Section 23-15-153 without first employing them in accordance with a board determination, consistent with the facts, that 1) the work involved is not required to be performed by the registrar or deputy registrar; and 2) the work is over and above the regular statutory duties of the election commissioners. Op.Atty.Gen. No. 2003-0096, Young, March 7, 2003.

Although Section 23-15-153 does not appear to contemplate that election commissioners perform the work necessitated by redistricting as a part of their regular duties, the election commission being a separate and distinct entity from the board of supervisors, individual commissioners may be employed on a part-time basis by the board of supervisors to perform redistricting tasks provided the board determines, consistent with the facts that 1) the work involved is not required to be performed by the registrar or deputy registrar; and 2) the work is over and above the regular statutory duties of the election commissioners. Op.Atty.Gen. No. 2002-0326, Martin, May, 31, 2002.

Municipal elections must be held under ward lines in effect on the date of the election, not proposed ward lines; the considerations posed by Sections 23-15-683, 23-15-715, 23-15-153, 23-15-361, and 23-15-353 require that Justice Department pre-clearance be received in sufficient time prior to election so that absentee and election day ballots can be printed, voters can be assigned to appropriate pollbooks in order to receive valid absentee and election day ballots, and absentee voters are not disenfranchised due to delays and reduced availability of absentee ballots. If the ward lines have not been precleared at the time absentee ballots are printed, then only those candidates whose petitions are valid under current (old) ward lines would be qualified to have their names printed. Op.Atty.Gen. No. 2005-0216, Wiggins, May 6, 2005, 2005 WL 1693002.

#### **Municipal polling books**

Section 23-15-153 gives municipalities the option to secure read only access to the Statewide Centralized Voter System and print its own poll books. Op.Atty.Gen. No. 2006-00055, Lawrence, March 24, 2006, 2006 WL 1184462.

#### **Equipment demonstrations**

The days for commissioners as specified in Section 23-15-153(2) are for the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and poll books. It does not include the demonstration of machines. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

**§ 23-15-153. Revising books, compensation of commissioners;..., MS ST § 23-15-153**

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Miss. Code Ann. § 23-15-153, MS ST § 23-15-153

Current through 2014 Regular and First and Second Extraordinary Sessions.

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West's Annotated Mississippi Code

Title 23. Elections

Chapter 15. Mississippi Election Code (Refs & Annos)

Article 3. Voter Registration

Subarticle F. Purging

**Miss. Code Ann. § 23-15-153**

**§ 23-15-153. Revising books, compensation of commissioners; certification**

Currentness

\*\*\* Start Section

..., § 1, eff. July 1, 2002. Amended by Laws 2004, Ch. 305, § 12, eff. July 12, 2004; Laws 2006, Ch. 592, § 2, eff. June 29, 2006; Laws 2007, Ch. 434, § 4, eff. June 15, 2007; Laws 2010, Ch. 377, § 1, eff. June 21, 2010; Laws 2013, Ch. 413 (S.B. 2238), § 1; Laws 2013, Ch. 456 (S.B. 2311), § 1.

**Editors' Notes**

**EFFECTIVE DATE**

<This section was amended effective upon effectuation under Section 5 of the Voting Rights Act of 1965. See *Shelby County, Ala. v. Holder*, 2013, 133 S.Ct. 2612, 186 L.Ed.2d. 651. >

**Relevant Notes of Decisions (38)**

View all 83

Notes of Decisions listed below contain your search terms.

**Construction and application**

Training days such as are required by Sections 23-15-531.7 and 23-15-491 are separate from the revising and purging the poll books under Section **23-15-153**. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

The amendment of Section **23-15-153** by Laws 2006, Ch. 592 (Senate Bill 2291) does not change that basic role of the county board of election commissioners as described in that Section. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

Section **23-15-153** does not encompass primary elections because county election commissioners have no duties in the conduct of primaries, however, the revision of the poll books for a primary election pursuant to Section 23-15-127 would entitle a county election commissioner to be compensated pursuant to Section **23-15-153** subject to the annual limitation specified therein. Op.Atty.Gen. No. 2000-0594, McLeod, October 13, 2000.

The Municipality is not required to obtain the approval of the United States Department of Justice before any changes are made to the Voting Rolls. The proper guidelines to follow are found in Section **23-15-153**. Counties are required to make submissions of any plan to purge for non-voting pursuant to Section 23-15-159. Op.Atty.Gen. No. 93-0593, Zebert, Sept. 15, 1993.

### **Construction with other laws**

Based on the language of Sections **23-15-153**, 23-15-239, and 23-15-491, if the Legislature had intended for maximum number of per diem days which can be claimed to apply to the entire group of five election commissioners, that number to be allocated among them, then the statutes would have read the "election commission shall be entitled to receive a per diem in the amount of Eighty-four dollars (\$84.00)." Whereas in these Sections, the constituent members of the election commission are the "commissioners of election," while a reference to the body as a whole is normally to "the election commission." Also, the fact the "Per Diem Claim Form" printed in Section **23-15-153** (7) makes no reference or accommodation to the fact that if the per diem day maximum applied to the commission as a whole, then the per diem days would have to be somehow allocated among the election commission members. Accordingly, where those Sections refer to the maximum number of per diem days which the 'commissioners of election' are entitled to claim, those maximums apply to individual election commissioners and not to the election commission as a body. Op.Atty.Gen. No. 2008-00470, Hafter, August 29, 2008, 2008 WL 4140525.

While state law governs the purging of names from the voter registration books and poll books, Section **23-15-153** specifically requires compliance with the National Voter Registration Act of 1993 (NVRA) when purging is based on a change of residence. Op.Atty.Gen. No. 2006-00620, Jones, December 8, 2006, 2006 WL 4038563.

### **Meeting times**

Pursuant to Section **23-15-153**, names may be purged from the voter rolls for purposes of state and local elections without regard to the federal deadline; however, voters whose names are purged pursuant to state law after the August 7 deadline will be allowed to vote for federal offices only. Op.Atty.Gen. No. 96-0595, Allsup, Aug. 23, 1996.

### **Minutes of meetings**

Since Section **23-15-153** requires county election commissions to meet in the office of the county registrar (circuit clerk) to revise the voter registration records, the minutes of the commissions should be available as a public record in the office of the circuit clerk. Op.Atty.Gen. No. 2008-00086, Robinson, March 14, 2008, 2008 WL 965680.

### **Location of records**

There is no statutory provision that requires a county election commission to file its minutes in the office of the chancery clerk. Section **23-15-153** provides that a county election commission is required to perform its purging activities in the office of the registrar, who by Section 23-15-211(1) is the circuit clerk. Also, the circuit clerk is required by Sections 23-15-225 and 23-15-235 to assist the election commission in the performance of its duties. Therefore, the minutes of a county election commission should be available as a public record in the office of the circuit clerk. Op.Atty.Gen. No. 2006-00170, Mitchell, December 13, 2006, 2006 WL 4038583.

### **Method of purging rolls**

Even where there presently is no such book compiling such matters, the election commission is still responsible under Section **23-15-153(1)** for removing disenfranchised felons from the voter rolls from other sources, such as the docket book in this office that contains the felony criminal cases before our circuit court. Furthermore, Section 23-15-19 requires the circuit clerk as county registrar to erase from the registration records the name of any person convicted of any disenfranchising crime. Op.Atty.Gen. No. 2003-0555, Allen, October 24, 2003.

The procedures for purging voter rolls as described in Section 23-15-153, apply to Municipal Voting Rolls; and, there are no separate guidelines established specifically for Municipal Voting Rolls. Op.Atty.Gen. No. 93-0593, Zebert, Sept. 15, 1993.

The voter rolls used in municipal elections must accurately reflect only the names of persons eligible to vote in said elections. Whether the municipal election commission chooses to work from the existing municipal rolls or adopt the applicable portion of the county rolls as the official municipal rolls, proper purging as required by Section 23-15-153 is essential. Op.Atty.Gen. No. 93-0498, Balch, July 14, 1993.

The Election Commissioners may lawfully use mass mailing to acquire information for purging the voter rolls pursuant to Section 23-15-153 since a municipality may purge its voter registration books by making a factual determination that a voter does not reside at the address listed on his or her registration; however, future legislation might require that those persons whose postcards come back as undeliverable be placed on an inactive list for a period of two successive federal elections prior to being removed from the registration books. Op.Atty.Gen. No. 98-149, Exum-Petty, March 20, 1998.

#### **Change of residency**

Pursuant to Section 23-15-153, a county election commission has the duty to remove the names of individuals who have established residency outside the county from the voter registration records. Op.Atty.Gen. No. 94-0249, Elliott, May 25, 1994.

#### **Compensation, generally**

There is no state statute setting the compensation of municipal election commissioners. Assuming that said compensation is not specifically stated in the Special Charter of the City and that a section of that charter relating to compensation of officers is applicable, the governing authorities may lawfully set the compensation of the municipal election commissioners at the same rate and within the guidelines established by Section 23-15-153 for county election commissioners. Op.Atty.Gen. No. 2006-00455, Turnage, September 15, 2006, 2006 WL 3147015.

Section 23-15-224 specifically authorizes compensation for county registrars who assist party executive committees in connection with a primary election subject to the limitations set forth in Section 23-15-153. Therefore, a Circuit Clerk may claim the same number of statutory days for assisting the county executive committees as they claim for assisting the county election commission. Op.Atty.Gen. No. 2006-00191, Mitchell, May 12, 2006, 2006 WL 1966801.

The demonstration of DRE voting machines in accordance with Section 23-15-531.7 constitutes an integral part of the conduct of an election by a county election commission. Therefore, individual county election commissioners are entitled to per diem compensation pursuant to Section 23-15-153 for conducting such demonstrations. Op.Atty.Gen. No. 2006-0065, Robinson, February 24, 2006, 2006 WL 1900661.

#### **Per diem--In general**

Where Sections 23-15-153, 23-15-239, and 23-15-491 refer to the maximum number of per diem days which the "commissioners of election" are entitled to claim, those maximums apply to individual election commissioners and not to the election commission as a body. Op.Atty.Gen. No. 2008-00470, Hafter, August 29, 2008, 2008 WL 4140525.

If the facts are that the party executive committee actually programmed the voting machines and the circuit clerk provided assistance in such programming, the circuit clerk, pursuant to Section 23-15-225(3), would be entitled to claim per diem for each day or period of not less than five (5) hours accumulated over two or more days the clerk engaged in such activity subject to the limitation on days set forth in Section 23-15-153. Op.Atty.Gen. 2008-00289, Dulancy, June 13, 2008, 2008 WL 2687397.

The delivery of the DRE units to polling places for special and general elections is a statutory duty of the county election commissioners that constitutes a part of the duties for which they may claim a per diem subject to the provisions and limitations of Section **23-15-153** without prior approval of the board of supervisors. Op.Atty.Gen. No. 2008-00086, Robinson, March 14, 2008, 2008 WL 965680.

Individual county election commissioners are entitled to per diem compensation pursuant to Section **23-15-153** for conducting demonstration of the new electronic voting machines in accordance with Section 23-15-531.7. However, election commissioners must insure that they properly allocate their days in a manner that will allow them to properly perform all other duties relating to the revision of the registration books and poll books and the proper conduct of elections. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

Mandatory demonstrations of voting machines are an integral part of the conduct of an election and that commissioners giving those demonstrations are entitled to per diem compensation as provided in Section **23-15-153** subject to the limitation on days set forth therein. However, Section **23-15-153** (2) provides that the per diem of \$70.00 is for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election. Op.Atty.Gen. No. 2006-00196, Wilemon, May 26, 2006, 2006 WL 1966825.

Where, due to a challenge of a sheriff's election and the judicial ordering of a recount, the election commissioners have exhausted the annual 75 days allotment, there is nothing in the statutes that would allow a county board of supervisors to authorize per diem for election commissioners for days in excess of that provided for by Section **23-15-153**. The mandate of the court must be met even if it means the commissioners must work beyond normal hours each of their remaining days. Op.Atty.Gen. No. 2004-0594, Porter, December 10, 2004.

The code sections cited in Section 23-15-266 authorize agreements between clerks or election commissions and party executive committees to train poll workers, appoint poll workers, distribute ballot boxes, have ballots printed, distribute ballots and/or receive and canvass election returns. Performing one or more of these duties in connection with primary elections does not constitute performing official duties of a county election commission for which per diem is authorized pursuant to Section **23-15-153** or any other statute. However, such agreements may contain provisions whereby the executive committee agrees to compensate commissioners, although Section 23-15-299(6) restricts the use of qualifying fees collected by party executive committees to the reimbursement of travel expenses of its members and its secretary and a salary for the secretary. Op.Atty.Gen. No. 2001-0638, Robertson, October 12, 2001.

County election commissioners are entitled to claim per diem days for revising the registration books and pollbooks during calendar year 2001 up to the maximum number authorized by House Bill 685 (Laws 2001, Ch. 414, amending Section **23-15-153**) even though the new law only became effective on June 13, 2001 provided that such purging is necessary and the work is performed and documented as required by law. Per diem days authorized and lawfully claimed for special elections prior to June 13, such as the flag election, do not count against the total days authorized under the new law. Op.Atty.Gen. No. 2001-0598, Scott, September 21, 2001.

The number of per diem days county election commissioners may lawfully claim is that prescribed by House Bill 685 (Laws 2001, Ch. 414, amending Section **23-15-153**), based on the population figures of the 2000 federal decennial census provided that all hours worked are actually required, performed and documented as required by law. There is no requirement to pro-rate the number of days for calendar year 2001 between the "old law" and the "new law", and per diem days specifically authorized and lawfully claimed for special elections prior to June 13 do not count against the total days authorized under the new law. Op.Atty.Gen. No. 2001-0598, Scott, September 21, 2001.

The statutory provisions in effect on April 17, 2001 are controlling as to the number of per diem days county election commissioners may lawfully claim. Therefore, the commissioners of a county with 30,000 qualified electors on April 17, 2001 would be entitled to claim a maximum of 45 days (35 days for conducting the flag election and 10 days for revising the poll

books for a special election). House Bill 685, (Laws 2001, c. 414, amending Section **23-15-153**) did not grant any additional days for the April 17 flag referendum or any other election conducted prior to June 13. Op.Atty.Gen. No. 2001-0598, Scott, September 21, 2001.

Any per diem earned for work by county election commissioners in connection with revising primary election poll books would count against the annual limitation set forth in Section **23-15-153**, and no per diem pursuant to Section **23-15-153** could be earned with regard to a primary election because county election commissioners have no duties other than revising poll books in the conduct of primaries. Op.Atty.Gen. No. 2000-0594, McLeod, October 13, 2000.

The commissioners are entitled to compensation for a certain number of days actually employed in the performance of their duties in the conduct of an election under Section **23-15-153(4)**. The number of days that election commissioners are allowed to be compensated for their work in revising the registration books and pollbooks annually is set by § **23-15-153(2)**; however, there is no authority for increasing the statutory number of days authorized by said statute. Op.Atty.Gen. No. 94-0493, Crawford, Aug. 10, 1994.

Section 25-3-69 and not Section **23-15-153**, governs the amount of the per diem to be paid the election commissioners for the first day of attendance at the annual election training seminar. Section 23-15-211(4) specifically states that the per diem to be paid the election commissioners by the board of supervisors is for only the first day of their attendance at the election training seminar with no compensation for subsequent days of attendance. Op.Atty.Gen. Gex, March 2, 1989.

#### **--- Carry-over, per diem**

As to whether, with regard to primary elections, the per diem compensation of a county election commissioner would count against the total per diem compensation allowed under Section **23-15-153**, a per diem may be earned in one of two ways. First, a period of not less than five (5) hours during a particular day would entitle a commissioner to a per diem. Second, a period of less than five (5) hours worked during a particular day may be carried forward and added to other periods of less than five (5) hours. Once a total of five (5) hours is accumulated over a period of two (2) or more days, the commissioner would also be entitled to a per diem. Op.Atty.Gen. No. 2000-0594, McLeod, October 13, 2000.

#### **Training events**

The Election Commissioners Association of Mississippi (ECAM) could lawfully sponsor one or more training events for its members, and election commissioners attending a training event sponsored by ECAM would be entitled to receive a per diem as prescribed by Section **23-15-153** provided a training certificate from ECAM is received and provided the six day limit is not exceeded. Op.Atty.Gen. No. 2002-0026, Phillips, February 1, 2002.

#### **Travel expenses**

There is no authority for county election commissioners to be reimbursed for travel expenses on election days or for the payment of mileage in addition to the per diem authorized by Section **23-15-153**. Election commissioners may be reimbursed for travel expenses when they perform duties other than purging registration books and conducting elections, provided it is first approved by the board of supervisors in accordance with Section 25-3-41. Op.Atty.Gen. No. 2001-0062, Lamar County Election Commission, February 16, 2001.

#### **Redistricting**

There is no authority for a board of supervisors to compensate commissioners for redistricting work over and above their regular “purging” duties for which compensation is provided for in Section **23-15-153** without first employing them in accordance with a board determination, consistent with the facts, that 1) the work involved is not required to be performed by the registrar or deputy registrar; and 2) the work is over and above the regular statutory duties of the election commissioners. Op.Atty.Gen. No. 2003-0096, Young, March 7, 2003.

Although Section **23-15-153** does not appear to contemplate that election commissioners perform the work necessitated by redistricting as a part of their regular duties, the election commission being a separate and distinct entity from the board of supervisors, individual commissioners may be employed on a part-time basis by the board of supervisors to perform redistricting tasks provided the board determines, consistent with the facts that 1) the work involved is not required to be performed by the registrar or deputy registrar; and 2) the work is over and above the regular statutory duties of the election commissioners. Op.Atty.Gen. No. 2002-0326, Martin, May, 31, 2002.

Municipal elections must be held under ward lines in effect on the date of the election, not proposed ward lines; the considerations posed by Sections 23-15-683, 23-15-715, **23-15-153**, 23-15-361, and 23-15-353 require that Justice Department pre-clearance be received in sufficient time prior to election so that absentee and election day ballots can be printed, voters can be assigned to appropriate pollbooks in order to receive valid absentee and election day ballots, and absentee voters are not disenfranchised due to delays and reduced availability of absentee ballots. If the ward lines have not been precleared at the time absentee ballots are printed, then only those candidates whose petitions are valid under current (old) ward lines would be qualified to have their names printed. Op.Atty.Gen. No. 2005-0216, Wiggins, May 6, 2005, 2005 WL 1693002.

#### **Municipal polling books**

Section **23-15-153** gives municipalities the option to secure read only access to the Statewide Centralized Voter System and print its own poll books. Op.Atty.Gen. No. 2006-00055, Lawrence, March 24, 2006, 2006 WL 1184462.

#### **Equipment demonstrations**

The days for commissioners as specified in Section **23-15-153(2)** are for the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and poll books. It does not include the demonstration of machines. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

Miss. Code Ann. § **23-15-153**, MS ST § **23-15-153**

Current through 2014 Regular and First and Second Extraordinary Sessions.

West's Annotated Mississippi Code

Title 23. Elections

Chapter 15. Mississippi Election Code (Refs & Annos)

Article 7. Election Officials

Miss. Code Ann. § 23-15-211

§ 23-15-211. State and county boards; training; statewide training program; computer skills training

Currentness

\*\*\* Start Section

... of State shall develop, in conjunction with the Mississippi Community College Board:

(a) A computer skills training course for all newly elected circuit clerks that shall be completed within one hundred eighty (180) days of the commencement of their term of office; and

(b) A computer skills refresher course for all serving circuit clerks that shall be completed within one hundred eighty (180) days of the commencement of every odd-numbered term of service.

**Credits**

Laws 1986, Ch. 495, § 45. Amended by Laws 1990, Ch. 325, § 1; Laws 2004, Ch. 305, § 13, eff. July 12, 2004; Laws 2006, Ch. 592, § 3, eff. June 29, 2006; Laws 2008, Ch. 528, § 3, eff. August 7, 2008; Laws 2014, Ch. 397 (H.B. No. 460), § 2, eff. July 1, 2014.

JUDICIAL DECISIONS

**Compensation**

Pursuant to Section 23-15-211, the Clay County Board of Supervisors has no authority to reimburse chairpersons of each political party executive committee for attending elections certification training. Chairpersons of party executive committees, or their designee, may seek reimbursement from the executive committee of their respective political party, pursuant to Section 23-15-299(6), for attending said training. Op.Atty.Gen. No. 2008-00090, Robinson, March 14, 2008, 2008 WL 965663.

**Training events**

The twelve days of training authorized by Section 23-15-211 are for training events in which the commissioners are being trained as opposed to the demonstration of Direct Recording Electronic (DRE) voting devices. Therefore, the demonstration of TSX machines (DRE devices) does not qualify as a "training event" pursuant to Section 23-15-211. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

**Necessity of training certificate**

Pursuant to Section 23-15-211, the Tishomingo County Board of Supervisors has no authority to take any action which may limit or prevent an election commissioner in performing his duties prior to the filing of the annual training certificate by April 30.

The Tishomingo County Board of Supervisors has no authority to pay an election commissioner's per diem unless the training certificate pursuant to Section 23-15-211 is filed annually with the chancery clerk by April 30. Moreover, the Tishomingo County Board of Supervisors is authorized to compensate election commissioners for work performed prior to receipt of the annual training certificate so long as the certificate is filed with the chancery clerk by April 30 of each year. Op.Atty.Gen. No. 2008-00197, Wilemon, May 23, 2008, 2008 WL 5550752.

Miss. Code Ann. § 23-15-211, MS ST § 23-15-211

Current through 2014 Regular and First and Second Extraordinary Sessions.

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West's Annotated Mississippi Code

Title 23. Elections

Chapter 15. Mississippi Election Code (Refs & Annos)

Article 7. Election Officials

Miss. Code Ann. § 23-15-239

§ 23-15-239. Training managers and alternates; written agreements  
with executive committees; compensation; notice of attendance

Currentness

\*\*\* Start Section

...s, not more than thirteen (13) days per year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than fourteen (14) days per year.

(6) Commissioners of election shall claim the per diem authorized in subsection (5) of this section in the manner provided for in Section 23-15-153(6).

**Credits**

Laws 1986, Ch. 495, § 68; Laws 1989, Ch. 396, § 1; Laws 1995, Ch. 429, § 1, eff. August 4, 1995; Laws 1999, Ch. 441, § 1, eff. Aug. 2, 1999; Laws 2001, Ch. 523, § 2, eff. June 20, 2001. **Amended by** Laws 2006, Ch. 592, § 4, eff. June 29, 2006; Laws 2007, Ch. 565, § 2, eff. July 16, 2007; Laws 2008, Ch. 528, § 5, eff. August 7, 2008.

**JUDICIAL DECISIONS**

**Construction with other laws**

Reading §§ 23-15-239 and 23-15-263 in pari materia, it is the duty and responsibility of the appropriate party executive committees to train pollworkers who are to serve in the respective party primaries. Op.Atty.Gen. No. 94-0186, Pittman, May 11, 1994.

**Duties of executive committee**

The fact that section 23-15-239 was amended to provide that no person shall serve in any election unless he has received the appropriate training during the twelve month period immediately preceding the election in which that person has been appointed to serve, does not shift the responsibility of training pollworkers for primary elections to the election commission. It remains the duty and responsibility of the respective party executive committees to insure that persons who are to serve in their party's primary have been properly trained. Op.Atty.Gen. No. 94-0186, Pittman, May 11, 1994.

**Compensation**

Based on the language of Sections 23-15-153, **23-15-239**, and 23-15-491, if the Legislature had intended for maximum number of per diem days which can be claimed to apply to the entire group of five election commissioners, that number to be allocated among them, then the statutes would have read the “election commission shall be entitled to receive a per diem in the amount of Eighty-four dollars (\$84.00).” Whereas in these Sections, the constituent members of the election commission are the “commissioners of election,” while a reference to the body as a whole is normally to “the election commission.” Also, the fact the “Per Diem Claim Form” printed in Section 23-15-153 (7) makes no reference or accommodation to the fact that if the per diem day maximum applied to the commission as a whole, then the per diem days would have to be somehow allocated among the election commission members. Accordingly, where those Sections refer to the maximum number of per diem days which the “commissioners of election” are entitled to claim, those maximums apply to individual election commissioners and not to the election commission as a body. Op.Atty.Gen. No. 2008-00470, Hafler, August 29, 2008, 2008 WL 4140525.

County boards of supervisors have the discretionary authority to compensate qualified electors of the county who are duly appointed to serve as pollworkers in a primary election and attend one or more training sessions conducted by a county party executive committee, and the rate of such compensation must be within the limits set forth in Section **23-15-239**. Op.Atty.Gen. No. 2000-0067, Scott, February 18, 2000.

Section **23-15-239** authorizes qualified electors who have received the training “once during the twelve (12) months immediately preceding the date upon which such election is held” to serve in said election. A county election commission may choose to appoint qualified individuals who were previously trained and served in a primary to also serve in the following general election, but if individuals who were paid for attending one or more training sessions conducted by a party executive committee are appointed by a commission, they would not be eligible for any further compensation for attending another training session. Op.Atty.Gen. No. 2000-0067, Scott, February 18, 2000.

The terms “poll worker” and “manager” are interchangeable as used in the election statutes. Therefore, a county board of supervisors has the discretionary authority to compensate poll workers for attending certification classes pursuant to Section **23-15-239** (3). Op.Atty.Gen. No. 2003-0033, Meadows, January 31, 2003.

Municipal poll managers may receive payment for attending training sessions pursuant to Section **23-15-239**. Op.Atty.Gen. No. 2012-00252, Gabriel, May 22, 2012.

Miss. Code Ann. § **23-15-239**, MS ST § **23-15-239**

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West's Annotated Mississippi Code

Title 23. Elections

Chapter 15. Mississippi Election Code (Refs & Annos)

Part 2. Training on Use of Electronic Voting Equipment

Subarticle E. Direct Recording Electronic Voting Equipment (Dre)

Miss. Code Ann. § **23-15-531.7**

§ **23-15-531.7**. Demonstration and exhibition of units and voter education

Currentness

The officials in charge of the election shall place on public exhibition and demonstrate the use of the DRE units throughout the county or municipality during the month preceding each primary and general election. At least during the initial year in which DRE equipment is used in a county or municipality, all officials in charge of the election shall offer a series of demonstrations and organized voter education initiatives to educate electors in the use of such equipment in voting.

#### **Credits**

Added by Laws 2005, Ch. 534, § 8, eff. June 6, 2005.

#### **JUDICIAL DECISIONS**

##### **Construction and application**

The statutory reference in Section **23-15-531.7** to “officials in charge of the election” refers to party executive committees for primary elections and to county election commissions for special and general elections. Op.Atty.Gen. No. 2008-00086, Robinson, March 14, 2008, 2008 WL 965680.

##### **Construction with other laws**

The provisions of Section 23-15-491 that were adopted in 2006 by the Legislature authorize certain additional days, based on population, to conduct training sessions to educate qualified electors regarding the operation of electronic voting systems authorized pursuant to Section 23-15-461 et seq. Such training that is conducted during the month preceding a primary or general election would satisfy the mandatory demonstration requirements of Section **23-15-531.7**. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

Training days such as are required by Sections **23-15-531.7** and 23-15-491 are separate from the revising and purging the poll books under Section 23-15-153. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

##### **Compensation**

Individual county election commissioners are entitled to per diem compensation pursuant to Section 23-15-153 for conducting demonstration of the new electronic voting machines in accordance with Section **23-15-531.7**. However, election commissioners must insure that they properly allocate their days in a manner that will allow them to properly perform all other duties relating to the revision of the registration books and poll books and the proper conduct of elections. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

The demonstration of DRE voting machines in accordance with Section 23-15-531.7 constitutes an integral part of the conduct of an election by a county election commission. Therefore, individual county election commissioners are entitled to per diem compensation pursuant to Section 23-15-153 for conducting such demonstrations. Op.Atty.Gen. No. 2006-0065, Robinson, February 24, 2006, 2006 WL 1900661.

**Duties regarding equipment**

Section 23-15-531.7 requires the circuit clerk to store the DRE units and related equipment and provide compensation for safe storage and care of such units and equipment if the units and equipment are stored by a person or entity other than the circuit clerk. Absent a duly adopted regulation by the Secretary of State, the officials in charge of the election, with the assistance of the circuit clerk, would be responsible for “charging” of the machines. Nothing in the state statutes addresses the appointment or duties of private voting machine company personnel to assist in the conduct of elections. Op.Atty.Gen. No. 2007-00273, Ivy, June 1, 2007, 2007 WL 2019787.

Miss. Code Ann. § 23-15-531.7, MS ST § 23-15-531.7

Current through 2014 Regular and First and Second Extraordinary Sessions.

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