Election Commissioners' Association of Mississippi Annual Convention 2014

Overview of 2014 Elections

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Introduction

- 2014 Elections Overview
- Judicial Elections: What's different from other elections
- Related Topics
- Selected Attorney General Opinions

2014 Elections in Mississippi

- US House of Representatives
- US Senate
- Court of Appeals
- Circuit, Chancery, County Court Judges
- County School Board (some counties)
- Consolidated School District Trustee
- Mississippi Levee District Commissioner

U. S. House and Senate Races

- Qualifying deadline March 1. (23-15-299;-359)
- Primary June 3.
- Primary Runoff, if required, June 24.
- General Election November 4.

Court of Appeals

- Qualifying deadline May 9 at 5:00 pm.
- File qualifying papers, complete pledge, pay $200 fee to Secretary of State. File Statement of Economic Interest with Ethics Commission, notify Judicial Performance Commission.
- No political party affiliation (nonpartisan). Do not participate in primaries.
- COA Judges run in the OLD 5 Congressional Districts. Serve eight year terms.

Circuit and Chancery Court Judges

- Qualifying deadline May 9 at 5:00 pm.
- File qualifying papers, complete pledge, pay $100 fee to Secretary of State. File Statement of Economic Interest with Ethics Commission, notify Judicial Performance Commission within 10 days of qualifying/announcing.
- No political party affiliation (nonpartisan). Do not participate in primaries.
- All run this year. 4 year terms.

County Court Judges

- Qualifying deadline May 9 at 5:00 pm.
- File qualifying papers, complete pledge, pay $15 fee to Circuit Clerk. File Statement of Economic Interest with Ethics Commission, notify Judicial Performance Commission within 10 days of qualifying/announcing.
- No political party affiliation. Do not participate in primaries. Nonpartisan Judicial Elections.
- All run this year. 4 year terms.
- Clerk notifies commissioners within 2 business days of each candidate qualification. 23-15-977

County School Board Member

- Qualifying period of August 6-Sept 5 at 5:00 pm.
- No party affiliation, no primary.
- Qualify by petition with 50 signatures.
- NO RUNOFF; majority not required, high vote wins.
- 6 year terms.

Municipal Separate School District Trustee

- Elections are normally only for municipal separate school district trustee with ADDED TERRITORY outside the municipal lines. 5 year terms.
- Previously held in March – statute amended
- Elections now held in November on regular election day
- Qualifying deadline of September 5th – 5:00 pm (60 days before election) 37-7-211
- Qualify with county election commission (file with circuit clerk)
- Petition signed by not less than 25 qualified electors of the district
- Runoff 3 weeks later if necessary

Consolidated School District Trustee

- Staggered 5 year terms.
- Qualifying period of August 6-Sept 5.
- Non-partisan, no primary, qualify by petition normally with 50 signatures. 37-7-225
- Unlike county school board member, runoff required 3 weeks later if no candidate receives majority in the General Election. 37-7-227

What is Different about Judicial Elections?

Major differences

- Candidates do not participate in primaries, or affiliate with parties.
- Later qualifying deadline.
- Majority vote required to be elected, so runoff after the general is possible.
- Grouped together on a separate portion of the general election ballot. Candidate names alphabetical. 23-15-979; -978
- Form committees for campaign finance disclosure purposes.
- Must contact Judicial Performance Commission in writing within 10 days of qualifying.

Justice Court Judges

- NOT a part of the Nonpartisan Judicial Election law.
- "Judicial Office" as defined in 23-15-975 does not include Justice Court Judges
- Will be elected in 2015.
- Can run by party.

Judicial campaign opinions, complaints

- Canon 5, Code of Judicial Conduct, especially Section 5(F), sets up a "Special Committee."
- Issues advisory opinions to candidates.
- Deals with allegations of campaign misconduct.
- Within 10 days of qualifying / announcing, candidates must notify Judicial Performance Commission of candidacy. Must sign acknowledgement they have read JPC campaign conduct materials.

Selected Calendar Entries

Election Commissioners' Required Meeting dates for purging:

- January 14
- May 6
- September 8

Miss. Code Section 23-15-153

Selected Calendar Entries

- March 1- Federal office qualifying deadline.
- May 9- Judicial office qualifying deadline

Special Elections

- Qualifying deadline for most vacancies: September 5 at 5:00 pm.
- 60 days prior to the regular special election day

County school board member/ consolidated school district trustee

- School board member and consolidated trustees have a qualifying window of August 6-September 5.

Primary and Runoff Calendar Entries

- June 3 Primary
- Committees should not delay certification so runoff candidates can be determined and absentee ballots printed.
- June 24-Runoff Primary Day.

Calendar Entries-General Election

- Check voter registration and absentee voting deadlines and extended hours requirements.
- November 4-General Election
- November 25-RUNOFF. Possible, at this point, in many counties- Court of Appeals, Circuit, Chancery, County courts, school trustee, special elections.

Selected Attorney General's Opinions on Elections Issues

Absentee Ballots

(Hafter, 12-22-99)

- An application form which does not contain both the seal and initials of the Clerk or deputy may not be utilized to obtain an absentee ballot.

Absentee Ballots

(Reece, 10-6-00)

- Voter's signature and the attesting witness's signature must be across the flap of the absentee ballot envelope. (See also Miss. Code Ann. Section 23-15-633)

Pollworkers

(Stennis, 2-19-92)

- The statutory authority to appoint pollworkers requires a minimum of three managers for each precinct. Additional pollworkers may be appointed in the discretion of the commissioners of election based on the number of registered voters in a particular precinct.

Party Executive Committees

(Brunini, 12-7-07)

- It is an inherent conflict of interest for members of a party executive committee to serve as poll workers in an election that their committee is conducting, therefore it is prohibited.

Executive Committees-Pollworkers

(Martin, 5-29-92)

- Each county party executive committee is responsible for appointing pollworkers to conduct its primary election separately and apart from all other elections. However, there is no prohibition against an individual being appointed by more than one executive committee.

Curbside Voting

(Berkley, 6-19-91)

- "Curbside Voting" has been practiced in Mississippi at least since 1959. The outlined procedure is in compliance with a 1959 opinion, and would have the effect of furthering the stated purpose of the Federal Voting Accessibility for the Elderly and Handicapped.
- Curbside voting procedures now codified at 23-15-541.

Arms in the Polling Place

(Holliman, 7-28-94)

- Armed and/or uniformed law enforcement officers may enter their polling places for the purpose of casting their votes. Candidates and their pollwatchers may not be in a polling place while armed and/or uniformed.

Candidate Petition

(Wolfe 7-13-12)

- Signatures on petition pages which do not contain the candidate's name may not be counted toward the number of signatures required.

Candidate Petition

(Sorrell 3-23-09)

- 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 towards the number of signatures required.

Disenfranchising Crimes

(Karrem, 4-23-04; Heggie July 9, 2009)

- Crimes involving drugs or controlled substances generally do not fall under one of the twenty-two (22) crimes identified that disqualifies one from voting. However, an independent determination must be made on each specific crime.
- Heggie opinion lists 22 disenfranchising crimes
- 23-15-11 – vote fraud

Candidate Residency is a Factual Determination

(Davies, 2-23-01)

- Residency of a potential candidate for office is a question of fact that must be determined by the appropriate election commission or, in case of a primary, the appropriate party executive committee.

Candidate Qualifications
(Norwood, 9-5-97)

- The Mississippi Supreme Court has held that the county of domicile requires an actual residence be voluntarily established with a bona fide intention of remaining in that county for an indefinite period of time. If the executive committee finds that an individual satisfies the residency requirements as a matter of fact, the committee must include that name upon the ballot. The executive committee is authorized to inquire into the residency of a candidate prior to the printing of the ballots. If a candidate does not satisfy the residency requirement, then the burden shifts to the candidate to negate the finding of the committee.
- NOTE: Notice and opportunity for a hearing required.

Homestead Exemption in Residency Issues

- The *Hinds County Election Commission v. Brinston , 671 So. 2d 667 (Miss. 1996),* case from the Miss. Supreme Court establishes how homestead exemption is to be weighed in determining residency:
- "There is a <u>strong but rebuttable presumption</u> of residency in the county where the homestead exemption is filed. The location of the homestead exemption creates this strong presumption because of the benefit in the form of tax relief one receives by filing."
- MS AG Op., Notter (February 13, 2009).

Residency and Abandonment of Old Residence

- Residency and domicile are synonymous. Domicile, once established, continues until removal to another locality with intent to remain there and abandonment of the old domicile without intent to return. MS AG Op., Conaway (September 20, 1989) quoting from:
- *Hubbard v. McKey, 193 So.2d 129 (1966)*.

Looking up Official Opinions on the Internet

- Getting to the database has been greatly simplified.
- www.agjimhood.com
- Click on "About Us" and under "Divisions" you will see "opinions and local government". Click on tab. Then click "HERE" to search opinions.
- Can use natural language or terms and connectors for your search terms.

Thanks!

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