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Primary Elections

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Primary Elections

Private Acts of 1933 Chapter 759

SECTION 1. That a primary election, within the meaning of this Act, is an election held within any of the counties of this state having a population of not less than 159,000 and not more than 200,000 by the Federal Census of 1930, or any subsequent Federal Census, or within any district or sub-division of said counties, as the case may be, by the members of any political party or by voters of same political faith, for the purpose of nominating candidates for judicial, county and district offices, within said counties to be elected by the voters of said county at the regular biennial August election; provided that one poll list shall be returned to the County Court Clerk and the other to the Chairman of the Governing Committee.

SECTION 2. That all primary elections held in said counties, by the various political parties, shall be held and conducted in the same form and manner and under the same requirements as are or shall be provided by law for holding of regular state elections, except in such particulars as are herein excepted. Provided, however, that only a political party casting 30% of the total vote for the county official receiving the highest number of votes in the last preceding general election of the county in which such primary election is proposed may be held and conducted hereunder.

As amended by: Private Acts of 1963, Chapter 269

SECTION 3. That any act or deed pronounced an offense by the general laws of the State concerning elections shall also be made an offense in all primary elections, and shall be punished in the same form as is provided for the punishment of similar offenses by the general laws; and all the penalties and provisions of the general laws shall apply in such cases with equal force, and shall be as effective as though fully set out in this Act.

SECTION 4. That whenever it shall be desired by the committee or governing authority of any political party to hold a primary election under the provisions of this Act, said committee or governing authority shall, at least thirty days prior to such primary election, give public notice thereof by posting such notice at the court house door and at one or more public places in each ward or district in the county in which election is to be held, or by publication in a newspaper, once a week for at least two weeks prior to said primary. Such notice shall state the date of such proposed primary election, the hours between which it will be held, the offices for which candidates are to be nominated, and the places at which polls will be opened at such primary election.

SECTION 5. That all persons who are legal voters shall have the right to participate in such primary elections, subject to such additional qualifications as may be prescribed by the committee or governing authority.

SECTION 6. That in all counties, districts, wards or precincts, all legal electors, or who will be legal electors at the regular election at which the candidate is to be voted for, shall have the right to vote at any primary election held by any political party if they conform to the conditions and qualifications prescribed by the committee or governing authority of the political party having direction and control of such primary, by applying at the polls of the precinct in which they reside and making known the fact that they conform to such conditions and qualifications as have been so prescribed. In case the officers of such primary election be in doubt as to the right of any person to vote, such person shall be sworn by the judges of election and examined as to his right to vote. Any bystanders may also challenge the right of any person to vote, and in all such cases such person whose right to vote is so challenged shall be sworn and examined as hereinbefore set forth.

SECTION 7. That the officers for each election precinct, ward, or district in all primary elections held under the provisions hereof, shall be the same number as is required and designated by law to hold regular State elections, and their duties and responsibilities shall be precisely the same as those of legally appointed and regularly qualified officers of regular State elections. They shall be appointed by the regularly organized and constituted committee or governing authority of the political party holding such primary election, and shall, before entering upon the discharge of their respective duties, take the same oath required to be taken by officers of regular State elections. The officers in each primary election precinct, ward or district, shall be selected from [sic] list furnished by the ward or district committeemen at least ten days before such primary election, and shall be as nearly equally divided as possible as to judges, clerks and officers among the various candidates. The officers of all primary elections held under the provisions hereof, shall have the same power and privileges as officers of regular State elections, and shall be subject to the same restrictions, limitations and conditions. Any act or deed denounced by general law as an offense in the case of officers of regular State elections is hereby declared to be an offense in the case of officers of such primary elections and shall be punished in the same form and

manner as is prescribed by general law.

SECTION 8. That any person desiring to submit his name to the voters in a primary election shall, not later than thirty days next preceding the holding of such primary election, apprise the committee or governing authority of the political party holding such primary of the fact that he is a candidate, and upon complying with the conditions prescribed by the committee [sic] or governing authority for the regulation of candidates, shall be declared to be a candidate by the committee or governing authority of such political party; and any person who has not given such notice to the committee or governing authority, or who has not complied with the conditions prescribed by the committee or governing authority for the government of candidates, shall not have his name printed on the ballots used in such primary election; but any person desiring to vote for another than the persons whose names are printed on such ballots shall have the right to do so by writing the name of the person for whom he desires to vote in the space on the ballot set apart for the names of the candidates for such office as he may desire such person so voted for to hold.

SECTION 9. That within such time as is provided by law in the case of State elections and in the same manner, the election returns in all primary elections shall be deposited with the committee or governing authority of the political party under whose direction and control such primary election was held, at such place as the committee or governing authority shall designate at which to receive such returns, and any person who shall change or in anywise alter such returns, shall be punished in the same form and manner as is provided by general law for the punishment of any person who changes or in anywise alters the returns of a regular State election.

SECTION 10. That the duly authorized and constituted committee or governing authority in the county or district in which a primary election may be held hereunder, is hereby empowered to count the votes received by all candidates in such primary elections, and to declare the candidate or candidates, in cases where candidates for more than one office are to be nominated, receiving the highest number of votes the nominee of such political party for the office for which he was voted for at such primary election. In all cases of a tie vote or contest the committee or governing authority of the political party holding such primary election shall have the power to hear and determine such contest and decide who shall be entitled to the nomination. In case there be more than two candidates for nomination to any office voted for in said primary, and no one candidate receives a majority of the votes cast at said primary election, then the committee or governing authority of the political party holding such primary election can, if it sees fit, order for the two candidates receiving the highest number of votes, a run off to determine the party candidate for said office; provided, however, [sic] if this Section of the law is to be taken advantage of, it must be made known when the primary election is called. The proceedings in such cases shall be in such form and manner as the committee or governing authority shall determine upon. Before entering upon the discharge of the duties set forth in this Act, the committee or governing authority shall be sworn by some officer authorized by law to administer an oath to faithfully and honestly discharge the duties herein imposed, and the failure upon the part of any member of the committee or governing authority to discharge such duties faithfully and honestly, shall be deemed a misdemeanor, and the persons so offending shall, upon indictment and conviction in the Circuit or Criminal Court of the county or district, be fined not less than One Hundred (\$100) Dollars nor more than Five Hundred (\$500) Dollars, and be imprisoned in the county jail not less than sixty days nor more than one year.

SECTION 11. That all expenses for holding such primary election shall be borne by the political party holding same, and the costs of publishing and circulating notices of election, and all other expenses including all expenses incurred by reason of any supplemental registration that may be ordered shall be defrayed in such manner as may be provided by the committee or governing authority of the political party holding such primaries. Provided, however, that all expenses for holding such primary election and the costs of publishing and circulating notices of such primary election, and all other expenses, including all expenses incurred by reason of any supplemental registration that may be ordered, in excess of \$5,000 where there are candidates for not more than ten public offices, or in excess of \$10,000.00 where there are candidates for more than ten public offices in such primary election, shall be paid out of the general or available funds of the county where such primary election is held, and the political party holding such primary election may withhold out of funds contributed to it for the purpose of paying the expenses of holding such primary election such funds as the executive committee or governing authority of the political party holding such primary election may direct for the purpose of payment of expense of such party executive committee or governing authority.

As amended by: Private Acts of 1963, Chapter 269

SECTION 12. That the provisions of the Act shall apply to all primary elections held for the purpose of nominating candidates for judicial, county and district offices, within said counties, to be elected by the voters of said counties at the regular biennial August election hereafter held in said counties.

SECTION 13. That each of the candidates voted for at any election held under the provisions of this Act

shall be entitled to an inspector of count, and for that purpose may appoint in writing an inspector of count to be present and witness the casting and count of the ballots in said election in each voting place in the district, ward, or county wherein said election is held, and said inspector shall have free access to the polling places during the progress of said election; provided, if there be more than five and less than ten candidates, any two of said candidates shall jointly appoint one inspector; if there be more than ten candidates and less than twenty, then any three of said candidates shall jointly appoint one inspector and for all over twenty, then any four of said candidates shall jointly appoint such inspector. It shall be the duty of the judges on the close of the polls to admit to the count of the vote as inspector any person as herein provided who submits to them an appointment in writing from any candidate or candidates. Any person presenting to the judges of said election an appointment in writing from any candidate or candidates at the close of the polls as aforesaid, shall be permitted to be present and witness the count of the ballots, and any judge or officer of election who shall prevent such authorized inspector to be present at the count of the ballots shall be guilty of a misdemeanor, and shall, upon indictment and conviction in the Circuit or Criminal Court, be fined not less than \$100 nor more than \$500.

SECTION 14. That the committee or governing authority of the political party holding such election shall designate in the public notice required to be given of said election the hours between which said election shall be held; provided, no election shall be held before the hour of 9 A. M. and not later than 7 P. M. in the different wards and districts of counties affected by this Act.

SECTION 15. That if any part of Chapter 759, Private Acts of 1933 be found illegal or unconstitutional, then the remaining sections and provisions thereof would have been enacted with such illegal or unconstitutional part omitted therefrom, and shall continue in full force and effect.

As amended by: Private Acts of 1963, Chapter 269

SECTION 16. That this Act shall take effect from and after its passage, the public welfare requiring it.

SECTION ____. *Be it further enacted,* That all primary elections held under the provisions of this Act in any calendar year shall be held on the same day.

COMPILER'S NOTE: Private Acts of 1963, Chapter 269, which specifically amends Sections 2, 11 and 15 of this act, contained the an amendment that was not given a section number. Therefore, it has been designated "Section ____."

Passed: April 18, 1933.

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