

Sunset Public Hearing Questions for
STATE ELECTION COMMISSION
Created by Section 2-11-101, *Tennessee Code Annotated*
(Sunset Termination June 2016)

1. Provide a brief introduction to the State Election Commission, including information about its purpose, statutory duties, and staff.

The State Election Commission (SEC) is a seven-member board whose members are first nominated by a joint senate-house caucus of the members of their political party and then elected by joint resolution of both houses of the General Assembly. The SEC has multiple statutory duties ranging from determining the cost of voter registration lists which may be purchased by the public for political purposes to approving the material which may be used to make absentee ballot boxes.

The SEC shares certain duties with the Coordinator of Elections (Coordinator). For example, the SEC and the Coordinator certify the voting machines that may be purchased and used in the State of Tennessee and certify the computerized voter registration systems that may be used in Tennessee. Additionally, the SEC shares with the Coordinator the responsibility of certifying newly appointed administrators of elections who make a passing score on the certification exam administered at least once a year.

Furthermore, TCA 2-12-101(a) requires the SEC to appoint the county election commissioners in the state's ninety-five counties. As the appointing authority for the five-member county election commissions, pursuant to TCA 2-12-101(b), the SEC reviews allegations of misconduct by county election commission members and subsequently may remove any county election commissioner for whom cause may be found. TCA- 2-11-202 (18) (C) requires if an administrator of elections fails to substantially perform in the duties of the office, the state election commission may revoke the certification of such administrator or otherwise discipline the administrator.

Additionally, if the name of a candidate will be confusing or misleading and that candidate's name is to appear on the ballot in more than one (1) county, the SEC must review the facts and circumstances and may take action to avoid the confusion on the ballot.

Effectively, the SEC serves to make sure the county election commission members function to conduct fair, impartial, and accurate elections.

2. What is the role of the Coordinator of Elections and what is the relationship between the coordinator and the commission?

TCA 2-11-202 outlines the duties of the Coordinator. In summary, the Coordinator generally supervises all elections, and works with the SEC in fulfilling its statutory duties. Among other things, the Coordinator has the responsibility to instruct individuals regarding election laws; advise administrators of elections, county

election commissioners, and primary boards regarding the implementation of election laws; and authoritatively interpret the election laws.

According to TCA 4-3-2103, the SEC is attached to the Department of State for “all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items.” Thus, for administrative purposes, the Coordinator and his staff, who are part of the Department of State, assists the SEC in relation to budgeting items. However, the statute clearly states that “the autonomy of the state election commission and its authority are not affected” by its attachment to the Department of State.

3. Provide a list of current members of the commission and describe how membership complies with Sections 2-11-102, 103, 104, and 112, *Tennessee Code Annotated*. Are there any vacancies on the commission? If yes, what is being done to fill those vacancies?

No Vacancies.

Commissioner Kent Younce, Republican
Resides in East Tennessee
Serves as Chairman to the SEC

Commissioner Tom Wheeler, Democrat
Resides in East Tennessee
Serves as Secretary to the SEC

Commissioner Donna Barrett, Republican
Resides in Middle Tennessee

Commissioner Judy Blackburn, Republican
Resides in East Tennessee

Commissioner Greg Duckett, Democrat
Resides in West Tennessee

Commissioner Mike McDonald, Democrat
Resides in Middle Tennessee

Commissioner James H. Wallace, Jr., Republican
Resides in West Tennessee

Each of the above members listed is at least twenty-five (25) years of age and has resided in Tennessee for at least seven (7) years prior to his/her election. Four members are from the majority party and three members represent the minority party.

4. How many times did the commission meet in fiscal years 2014 and 2015? How many members were present at each meeting?

Please see Attachment 1.

5. What were the commission's revenues (by source) and expenditures (by object) for fiscal year 2014 and 2015?

The Commission did not collect any revenue for 2014 or 2015.

Please see attachment 2 for the break-down for expenditures.

Note that the supplemental salary reimbursement for the certified Administrators of Elections flows through the budget of the SEC and constitutes the majority of the SEC's expenditures. TCA 2-12-209 requires that this supplemental pay be made to counties having certified administrators of election.

6. What compensation is paid to commission members under the provisions of Section 2-11-107, *Tennessee Code Annotated*? What travel reimbursements do members receive? How much was paid to commission members in fiscal years 2014 and 2015?

- a. Salaries, including benefits, and travel are paid to commission members.
- b. Commission members receive reimbursement for mileage, lodging and per diem.
- c. In 2014, commission members were paid \$101,163.41 in salaries and benefits and \$3,894.38 in travel. In 2015, commission members were paid \$104,031.48 in salaries and benefits and \$5,145.28 in travel.

Please see Attachments 3 and 4 for the break-down for expenditures.

7. What procedures does the commission have in place for the disclosure of conflicts of interest by staff members?

TCA 8-50-501 requires each member of the SEC and the Coordinator of Elections to file a disclosure of interest statement with the Tennessee Ethics Commission.

8. What were the major accomplishments of the commission during fiscal years 2014 and 2015?

The accomplishments of the SEC can be seen in the orderly operation of the election process. Ultimately, the fair and impartial elections that produce trustworthy results, which occur in the 95 counties in Tennessee, favorably reflect back to the general oversight authority the SEC has over the election commissions and administrators of elections.

9. What reports does the commission prepare on its operations, activities and accomplishments, and who receives these reports?

The current Tennessee Code requires the commission to keep minutes of its meetings. The meetings are available to the public and posted on the State Election Commission website.

10. Describe the relationship between the State Election Commission and the county election commissions, including any issues that arise within that relationship.

As stated, TCA 2-12-101(a) requires the SEC to appoint the county election commissioners in the state's ninety-five counties. As the appointing authority for the five-member county election commissions, pursuant to TCA 2-12-101(b), the SEC reviews allegations of misconduct by county election commission members and subsequently may remove any county election commissioner for whom cause may be found.

11. Section 2-12-101(a), *Tennessee Code Annotated*, states that the State Election Commission appoints members of the various county election commissions. Other than the residency requirements in Section 2-12-102 of the code, what criteria are used in appointing members to the county election commissions?

Additionally, TCA 2-1-112 places limitations on who may serve on the county election commission. Primarily, with only a few exceptions, employees of governmental agencies may not be appointed or serve on the county election commission. TCA 2-12-103 requires the appointed member to be a member of the party they are appointed to represent.

12. Section 2-12-101 (b), *Tennessee Code Annotated*, also gives the State Election Commission the power to remove or otherwise discipline members of the county election commissions. How many county election commissioners have been disciplined or removed during the last two fiscal years and what was the basis for the disciplinary action(s) taken?

On April 14, 2014, the State Election Commission voted to censure the Crockett County Election Commission after the county election commission decided to cancel the Republican County Primary. The county election commission did not have authority to cancel the primary once the election was called by the Crockett County Republican Primary.

July 14, 2015, the State Election Commission reviewed a complaint filed regarding a Maury County Election Commission member. The complaint indicated the county election commission member was serving as a Democrat on the commission and the commissioner voted in the Republican Primary. The State Election Commission voted unanimously to censure the commissioner and to send letters to all county election commission members advising them of the restriction of voting in the opposite party for which they are appointed to represent on their local election commission.

13. Where do the powers and duties of the Coordinator of Elections and the State Election Commission intersect and how do the two entities function in relationship to each other?

In many areas of elections, the Coordinator and the SEC work in tandem with each other. The Coordinator and SEC must agree to certify new voting machines that may be purchased and used by counties. Additionally, the Coordinator and the SEC work

together to certify new Administrators of Elections who demonstrate a certain level of knowledge and understanding of the election laws.

Throughout the process, the Coordinator serves to advise the SEC on questions which may arise regarding elections. However, ultimately, the SEC serves as its own entity, which makes determinations and decisions affecting the election process.

14. Is the commission subject to Sunshine law requirements (per Section 8-44-101 et seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the commission have for informing the public of its meetings and making its minutes available to the public?

Yes, the public meeting law applies to the SEC. The SEC informs the public about its meetings by posting notices of its meeting on the Division of Elections webpage. The minutes of the SEC meeting are open to the public and available for inspection upon request. In 2009, the SEC began placing its minutes on the Division of Elections website.

15. Describe any items related to the commission that require legislative attention and your proposed legislative changes. None

16. Should the commission be continued? To what extent and in what ways would the absence of the commission affect the public health, safety, or welfare?

Yes, the SEC should be continued. The SEC plays a vital role in the election process. The SEC serves in multiple facets to assure that elections in Tennessee are reliable and trustworthy.

From the SEC's role in reviewing the qualifications of those nominated to serve on the county election commission, to the SEC's role in certifying voting machines, the SEC provides a bi-partisan function in overseeing critical aspects of the election process. The SEC's authority to remove a county election commissioner, decertify an administrator of elections and its authority to not certify a voting machine provides the public with a non-threatening, civil, and inexpensive avenue to bring concerns about the election process.

17. Has the commission developed and implemented quantitative performance measures for ensuring it is meeting its goals? (Please answer either yes or no). If the commission has developed and implemented quantitative performance measures, answer questions 18 through 25. If the commission has not developed quantitative performance measures, proceed directly to question 26.

No.

18. What are your key performance measures for ensuring the commission is meeting its goals? Describe so that someone unfamiliar with the program can understand what you are trying to measure and why it is important to the operation of your program.

19. What aspect[s] of the program are you measuring?
20. Who collects relevant data and how is this data collected (e.g., what types information systems and/or software programs are used) and how often is the data collected? List the specific resources (e.g., report, other document, database, customer survey) of the raw data used for the performance measure.
21. How is the actual performance measure calculated? If a specific mathematical formula is used, provide it. If possible, provide the calculations and supporting documentation detailing your process for arriving at the actual performance measure.
22. Is the reported performance measure result a real number or an estimate? If an estimate, explain why it is necessary to use an estimate. If an estimate, is the performance measure result recalculated, revised, and formally reported once the data for an actual calculation is available?
23. Who reviews the performance measures and associated data/calculations? Describe any process to verify that the measure and calculations are appropriate and accurate.
24. Are there written procedures related to collecting the data or calculating and reviewing/verifying the performance measure? Provide copies of any procedures.
25. Describe any concerns about the commission's performance measures and any changes or improvements you think need to be made in the process.
26. Please list all commission programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity. None.

If the commission does receive federal assistance, please answer questions 27 through 34. If the commission does not receive federal assistance, proceed directly to question 33.

27. Does the commission prepare a Title VI plan? If yes, please provide a copy of the most recent plan.
28. Does the commission have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.
29. To which state or federal agency (if any) does the commission report concerning Title VI? Please describe the information your commission submits to the state or federal government and/or provide a copy of the most recent report submitted.
30. Describe the commission's actions to ensure that association staff and clients/program participants understand the requirements of Title VI.

31. Describe the commission's actions to ensure it is meeting Title VI requirements. Specifically, describe any commission monitoring or tracking activities related to Title VI, and how frequently these activities occur.

32. Please describe the commission's procedures for handling Title VI complaints. Has the commission received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

33. Please provide a breakdown of current commission staff by title, ethnicity, and gender.

Kathy Summers, a female, serves as the primary support staff for the State Election Commission. Ms. Summers' position is Elections Specialist and she is an American with Native American, English, Irish and Italian descent.

34. Please list all commission contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

None.

Tre Hargett, Secretary of State
State of Tennessee



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**State Election Commission Meetings
 Fiscal Years 2014 - 2015**

Meeting Date	Members Attending
July 8, 2013	Blackburn, Head, Wallace and Younce
August 12, 2013	Blackburn, DuBois, Head, Wallace, Wheeler and Younce
October 14, 2013	Blackburn, DuBois, Head, Wheeler and Younce
October 30, 2013 (Telephonic meeting)	Blackburn, DuBois, Duckett, Head, Wallace, Wheeler and Younce
December 30, 2013 (Telephonic meeting)	Blackburn, DuBois, Duckett, Head, Wallace, Wheeler and Younce
January 13, 2014	Blackburn, DuBois, Duckett, Head, Wallace, Wheeler and Younce
January 28, 2014 (Telephonic meeting)	Blackburn, DuBois, Head, Wallace, Wheeler and Younce
March 5, 2014 (Telephonic meeting)	Blackburn, Head, Wallace, and Younce
April 14, 2014	Blackburn, Head, Wallace, and Younce
May 12, 2014	Barrett, Blackburn, Head, Wallace, and Younce
July 14, 2014	Barrett, Blackburn, Head, Wallace and Wheeler
September 15, 2014 (Telephonic meeting)	Barrett, Blackburn, Duckett, Head, Wallace, Wheeler and Younce
September 29, 2014 (Telephonic meeting)	Barrett, Blackburn, Duckett, Head, Wallace, Wheeler and Younce
October 13, 2014	Blackburn, Head, Wallace, Wheeler and Younce
January 12, 2015	Barrett, Blackburn, Duckett, Head, Wallace, Wheeler and Younce
April 6, 2015	Barrett, Head, Wallace, Wheeler and Younce
May 4, 2015	Barrett, Blackburn, Duckett, McDonald, Wallace, Wheeler and Younce
June 22, 2015 (Telephonic meeting)	Barrett, Blackburn, Duckett, McDonald, Wallace, Wheeler and Younce
June 30, 2015 (Telephonic meeting)	Barrett, Blackburn, Duckett, McDonald, Wallace, Wheeler and Younce

Total Number of meetings held in fiscal years 2014 and 2015 = 19

Total Number of meetings attended by each Member in 2014 and 2015

Member Name	Number of Meetings Attended
Donna Barrett (New member – First Date on SEC - May 12, 2014)	9
Judy Blackburn	18
Tom Dubois (Last date on SEC – February 20, 2014)	6
Greg Duckett	9
Tommy Head (Last date on SEC - May 3, 2015)	16
Mike McDonald (New member – First Date on SEC – May 4, 2015)	3
Jimmy Wallace	18
Tom Wheeler	15
Kent Younce	18

Attachment No. 1

Tre Hargett, Secretary of State
State of Tennessee



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30502 - State Election Commission Expenditures
(Fiscal Years 2014 – 2015)

	<u>2014</u>	<u>2015 *</u>
701 - Personal Services	46,675.44	48,005.62
702 - Employee Benefits	65,944.94	60,267.14
703 - Travel	3,545.58	5,380.38
704 - Printing & Duplicating	43,420.00	133.25
706 - Communications & Postage	200.00	908.00
708 - Professional Services Third Party	-	27.63
709 - Supplies & Materials	-	105.94
710 - Rentals & Insurance	253.53	-
713 - Grants & Subsidies **	1,432,998.00	1,421,625.00
725 - Professional Svcs. By State	762.51	824.96
Total Expenditures	1,595,814.00	1,537,277.92

* as of 8/05/2015 (NOT FINAL)

** Administrator of Elections Certification Payments

Attachment No. 2

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State Election Commission
Travel Expenses Reimbursed for Fiscal Year 2014 and 2015

Member Name	Travel Reimbursement Fiscal Year 2014	Travel Reimbursement Fiscal Year 2015
Donna Barrett	\$144.86	\$553.34
Judy Blackburn	\$3,071.78	\$2,104.16
Tom Dubois	\$220.90	0
Greg Duckett	0	0
Tommy Head	\$90.24	0
Mike McDonald	0	\$303.42
Jimmy Wallace	0	0
Tom Wheeler	0	\$836.60
Kent Younce	\$366.60	\$1,347.76
Total	\$3,894.38	\$5,145.28

Reimbursed Travel Expenses Fiscal Year 2014 and 2015 = \$9,039.66

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**State Election Commission
 Salary and Benefits
 Fiscal Years 2014 - 2015**

SEC – Member Name	Salary FY 2014	Benefits FY 2014	Salary FY 2015	Benefits FY 2015	Misc Notes
Donna Barrett	\$961.04	\$2,198.84	\$6,857.16	\$13,277.90	Appointed 5/12/2014
Judy Blackburn	\$6,857.16	0.00	\$6,857.16	0.00	
Tom DuBois	\$4,571.44	\$10,534.35	N/A	N/A	Resigned 2/20/2014
Greg Duckett	\$6,857.16	0.00	\$6,857.16	0.00	
Tommy Head	\$6,857.16	\$12,895.12	\$5,763.75	\$10,979.60	Not Reappointed 5/3/2015
Mike McDonald	N/A	N/A	\$1,098.91	\$2,195.92	Appointed 5/4/2015
Jimmy Wallace	\$6,857.16	\$12,884.51	\$6,857.16	\$13,250.42	
Tom Wheeler	\$6,857.16	\$15,975.15	\$6,857.16	\$16,322.40	
Kent Younce	\$6,857.16	0.00	\$6,857.16	0.00	
TOTAL	\$46,675.44	\$54,487.97	\$48,005.62	\$56,026.24	

Total for Fiscal Years 2014 and 2015

Year	Salary	Benefits	Total
2014	\$46,675.44	\$54,487.97	\$101,163.41
2015	\$48,005.62	\$56,026.24	\$104,031.86

Combined Totals for Fiscal Years 2014 and 2015

Combined Totals	Salary	Benefit	Total
	\$94,681.06	\$110,514.21	\$205,195.27