

**Minutes**  
**State Election Commission Meeting**  
**June 18, 2012**

---

---

The State Election Commission meeting was called to order by Chairman Kent Younce at 12:09 p.m., Central Standard Time June 18, 2012. The following members and staff were present: Chairman Younce; Commissioners Blackburn, DuBois, Head, Wallace, Wheeler and Younce, Coordinator of Elections Mark Goins; and Kathy Summers, Elections Specialist.

Motion was made, seconded and unanimously approved to adopt the minutes from May 14, 2012.

Pursuant to T.C.A. § § 2-12-101 and 2-12-106, motion was made, seconded and unanimously approved to accept the nominations for county election commission appointment as submitted by commission members and to leave nomination process open until 4:30 p.m., Central Standard Time, June 18, 2012. (See attached list of appointments made.)

**Old Business**

- Barry Herron of Unisyn gave an update regarding the enhancements to OpenElect 1.1 voting machine.

After brief discussion, a motion was made, seconded and unanimously approved the certification of the Unisyn machine “Unisyn OpenElect 1.1 (Enhancement)” with EAC certification number UNS10121966-OE-1.1.

**New Business**

- **Hamilton County Election Commission – Supply Bags**

In 2006, the state gave federal grant monies to Hamilton County Election Commission as a pilot project for non metal ballot boxes. Coordinator Goins requested that the non metal ballot boxes be approved for use in the August and November elections.

- **PrintElect**

Chris Andrews stated his office has several requests for supply ballot bags and his company wants direction from the State Election Commission on how to proceed.

- **Roane County Election Commissioner sitting on Roane County Utilities Board**

Charles Holiway, Administrator of Elections for Roane County spoke on behalf of Mr. James Ryans. The Roane County Utility Board is paid per meeting and the position is appointed by the County Mayor.

Motion was made, seconded and unanimously approved to obtain an attorney general opinion specifically as it relates to the public utilities board.

- **Shelby County - Letter – Senator Kyle**

Senator Jim Kyle appeared before the State Election Commission and requested the State Election Commission to look into the allegations that there are more than 488 active voters whose voting history notations have been deleted. Senator Kyle has requested a meeting with the State Election Commission, Shelby County Election officials and the Coordinator's Office.

Coordinator Goins and State Election Commission members agreed to meet with voters and Election Officials in Shelby County to discuss the issue of voter history.

### **Coordinator Update**

- **Lincoln Davis Lawsuit**

Coordinator Goins gave an update regarding the settlement of the Lincoln Davis lawsuit.

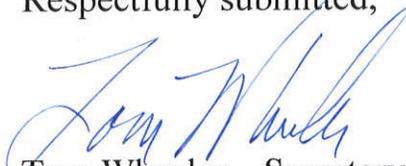
- **Tommy Higdon – requested to speak before the State Election Commission.**

At the May 14, 2012, meeting the State Election Commission unanimously approved to change United States Senate candidate James Higdon's name as it is requested to appear on the ballot in accordance to TCA §2-5-204(c). Mr. Higdon requested to appear as James Tea-Party Higdon. State Election Commissioners changed the name to appear as James Higdon in accordance with TCA §2-5-204(c). See attached documents presented by Mr. Higdon. Mr. Higdon would like to appear as James Tea-Party Higdon on the November ballot.

The next meeting is July 16, 2012. The meeting will be held in the William R. Snodgrass – Tennessee Tower, 3<sup>rd</sup> Floor, Bedford Room at NOON Central Daylight Time.

Motion was made to adjourn, and there being no further business to come before the commission at this time, the meeting was adjourned.

Respectfully submitted,



Tom Wheeler – Secretary  
State Election Commission

# Holdover Status

18-Jun-12

---

		Appointment	Reappointment
<b>Gibson</b>			
D	Greg Duckett		
R	Jimmy Wallace		
	D Kathleen Smith	6/22/2007	5/27/2009
	D Robert S. Phelan	4/3/1995	5/27/2009
<b>Haywood</b>			
D	Greg Duckett		
R	Jimmy Wallace		
	D Aubrey Lee Bond	4/3/1995	4/6/2009
	D Ida Ruth Bradford	4/3/1995	4/6/2009
<b>Henderson</b>			
D	Greg Duckett		
R	Jimmy Wallace		
	D Cornelia T. Morris	4/3/1995	4/6/2009
	D Pope Thomas	4/17/2001	4/6/2009
<b>Henry</b>			
D	Greg Duckett		
R	Jimmy Wallace		
	D Paul David Hessing	4/6/2009	4/6/2009
	D Sylvia C. Humphreys	5/19/1998	4/6/2009
<b>Humphreys</b>			
D	Greg Duckett		
R	Tom DuBois		
	D Jess S. Bowen, III	1/14/2003	4/6/2009
<b>Total Holdovers: 9</b>			

# Vacant Status

18-Jun-12

---

## **Benton**

D Greg Duckett  
R Jimmy Wallace

D

## **Dickson**

D Greg Duckett  
R Tom DuBois

R

## **Madison**

D Greg Duckett  
R Jimmy Wallace

R

## **Sumner**

D Tommy Head  
R Tom DuBois

D

## **Unicoi**

D Tom Wheeler  
R Judy Blackburn

D

**Total Vacancies: 5**

# New Appointment Status

19-Jun-12

---

		Appointment
<b>Benton</b>	D Greg Duckett / R Jimmy Wallace D Bradley N. Blackburn	6/18/2012
<b>Dickson</b>	D Greg Duckett / R Tom DuBois R Jack Garton	6/18/2012
<b>Humphreys</b>	D Greg Duckett / R Tom DuBois D Jess S. Bowen, III	6/18/2012
<b>Madison</b>	D Greg Duckett / R Jimmy Wallace R Bill Sipes	6/18/2012
<b>Sumner</b>	D Tommy Head / R Tom DuBois D Thomas Boyers, V	6/18/2012
<b>Unicoi</b>	D Tom Wheeler / R Judy Blackburn D Bill Beckman	6/18/2012
<b>Total New Commissioners: 6</b>		



**U.S. ELECTION ASSISTANCE COMMISSION**

Voting System Testing and Certification Program

1201 New York Avenue, NW, Suite 300

Washington, DC. 20005

April 9, 2012

Chris Ortiz, Certification Manager  
Unisyn Voting Solutions  
2310 Cousteau Court.  
Vista, CA 92081

**Sent via e-mail**

**Re: Agency Decision – Grant of Certification**

Dear Mr. Chris Ortiz,

As required under §5.9 of the EAC's Voting System Testing and Certification Program Manual, Unisyn Voting Solutions and Wyle Laboratories have provided the necessary documentation for the OpenElect 1.1 voting system verifying that 1) the trusted build has been performed, 2) software has been deposited in an approved repository, 3) system identification tools are available to election officials, and 4) signed a letter stating, under penalty of law, that you have:

1. Performed a trusted build consistent with the requirements of §5.6 of the EAC's Certification Manual;
2. Deposited software consistent with §5.7 of the EAC's Certification Manual;
3. Created and made available system identification tools consistent with §5.8 of the EAC's Certification Manual (a copy and description of the system identification tool developed must be provided with the letter); and
4. Upon a final decision to grant certification, the manufacturer accepts the certification and all conditions placed on the certification.

Based on the review of the documentation above and the fact that Unisyn OpenElect Voting System 1.1 successfully completed conformance testing to the 2005 Voluntary Voting System Guidelines (2005 VVSG), the Voting System Testing & Certification Program Director has recommended EAC certification of this system.

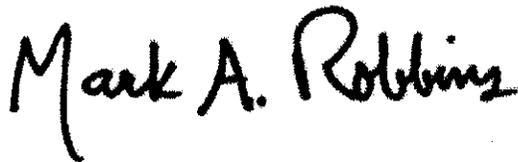
I have reviewed all of the documentation and concur with the Program Director's recommendation. As such, I hereby grant EAC Certification to Unisyn OpenElect Voting System 1.1 to the 2005 Voluntary Voting System Guidelines.

The EAC certification number issued for this system is: **UNS10121966-OE-1.1**. In addition, a Certificate of Conformance shall be provided to Unisyn as evidence of the EAC certification of the OpenElect Voting System 1.1. The Certificate of Conformance shall be provided to Unisyn no later than five business day from the date of this letter, and it shall be posted on the EAC's Web site.

As stated in §5.11 of the EAC's Certification Manual, the EAC certification and certificate apply only to the specific voting system configuration(s) identified, submitted, and evaluated under the Certification Program. Any modification to the system not authorized by the EAC shall void the certificate.

If you have any questions or need further information, please do not hesitate to contact Brian Hancock or Joshua Franklin at your earliest convenience. I thank you in advance for your time and attention to this matter and congratulate on this achievement.

Sincerely,



---

Mark A. Robbins  
General Counsel and Acting Executive Director  
Decision Authority

04/09/2012  
Date

Cc: Brian Hancock, U.S. Election Assistance Commission  
Frank Padilla, Wyle Laboratories

CCPY

Tre Hargett, Secretary of State  
**State of Tennessee**



Division of Elections  
312 Rosa L. Parks Avenue, 9<sup>th</sup> Floor  
Nashville, Tennessee 37243-0305

Mark Goins  
Coordinator of Elections

615-741-7956  
Mark.Goins@tn.gov

June 18, 2012

Chris Ortiz, Certification Manager  
Unisyn Voting Solutions  
2310 Cousteau Court.  
Vista, CA 92081

Dear Mr. Ortiz:

This letter is to inform you of certification of the UNISYN OpenElect 1.1, bearing the EAC Certification Number: UNS10121966-OE-1.1 by the State Election Commission on June 18, 2012. This machine was previously viewed and demonstrated before the State Election Commission on March 12, 2012.

Thank you for your cooperation in the certification process.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Goins", written over a white background.

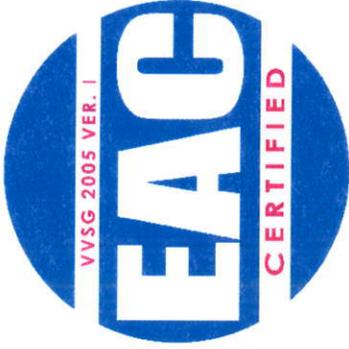
Mark Goins  
Coordinator of Elections

Cc: Robb McGinnis  
Dan McGinnis

Attachment: EAC Certification Number UNS10121966-OE-1.1



United States Election Assistance Commission



## Certificate of Conformance

### Unisyn OpenElect 1.1 (Modification)

The voting system identified on this certificate has been evaluated at an accredited voting system testing laboratory for conformance to the 2005 *Voluntary Voting System Guidelines (2005 VVSG)*. Components evaluated for this certification are detailed in the attached Scope of Certification document. This certificate applies only to the specific version and release of the product in its evaluated configuration. The evaluation has been verified by the EAC in accordance with the provisions of the *EAC Voting System Testing and Certification Program Manual* and the conclusions of the testing laboratory in the test report are consistent with the evidence adduced. This certificate is not an endorsement of the product by any agency of the U.S. Government and no warranty of the product is either expressed or implied.

Product Name: OpenElect

Model or Version: Version 1.1 (Modification)

Name of VSTL: Wyle Laboratories

EAC Certification Number: UNS10121966-OE-1.1

Date Issued: April 09, 2012

*Mark A. Robbins*

General Counsel and Acting Executive Director  
U.S. Election Assistance Commission

Scope of Certification Attached

**Manufacturer:** Unisyn Voting Solutions  
**System Name:** OpenElect 1.1  
**Certificate:** UNS10121966-OE-1.1

**Laboratory:** Wyle Laboratories  
**Standard:** 2005 VVSG  
**Date:** 04/09/2012



---

## Scope of Certification

---

This document describes the scope of the validation and certification of the system defined above. Any use, configuration changes, revision changes, additions or subtractions from the described system are not included in this evaluation.

### Significance of EAC Certification

An EAC certification is an official recognition that a voting system (in a specific configuration or configurations) has been tested to and has met an identified set of Federal voting system standards. An EAC certification is **not**:

- An endorsement of a Manufacturer, voting system, or any of the system's components.
- A Federal warranty of the voting system or any of its components.
- A determination that a voting system, when fielded, will be operated in a manner that meets all HAVA requirements.
- A substitute for State or local certification and testing.
- A determination that the system is ready for use in an election.
- A determination that any particular component of a certified system is itself certified for use outside the certified configuration.

### Representation of EAC Certification

Manufacturers may not represent or imply that a voting system is certified unless it has received a Certificate of Conformance for that system. Statements regarding EAC certification in brochures, on Web sites, on displays, and in advertising/sales literature must be made solely in reference to specific systems. Any action by a Manufacturer to suggest EAC endorsement of its product or organization is strictly prohibited and may result in a Manufacturer's suspension or other action pursuant to Federal civil and criminal law.

### System Overview:

The Unisyn OpenElect 1.1 modification is an end-to-end optical scan, paper based, precinct voting system that uses touch screen and scan technology to scan, validate and tabulate ballots. It provides second chance voting, assistance for a wide variety of special needs voters, tabulates precinct results, and accumulates all results into a central reporting system. Additional functionality includes central scan, election definition and ballot generation, as well as full electronic adjudication.

## Certified System before Modification:

**Unisyn Voting Solutions OpenElect 1.0**

**Certificate ID: UNS10121966-OE**

**Unisyn Voting Solutions OpenElect 1.0.1**

**Certificate ID: UNS10121966-OE-WI**

## Anomalies and/or Additions addressed in OpenElect 1.1:

The Unisyn OpenElect 1.1 modification provides enhancements to the Ballot Layout Manager, including expansion to support ballots lengths of 11, 14, 17, 19 & 21 inches; support for single sided ballots; ballot measures can extend the full width of the ballot page; creation of sample ballots; and other ballot formatting enhancements.

Unisyn OpenElect 1.1 enhancements were also made to the OpenElect Central Suite applications in the following areas: Tabulator, Election Manager, and OpenElect Voting Central Scan applications. Supporting changes were also made to the OVI (OpenElect Voting Interface) and OVO (OpenElect Voting Optical) firmware. Security enhancements were also added to continue to extend the system's security features and capabilities.

The OpenElect Central Suite of applications was expanded with the addition of a new application: the Adjudicator. This new application allows a jurisdiction to evaluate ballots with questionable markings and change them if need, in accordance with the perceived intent of the voter.

Unisyn also introduced a 15" LCD touchscreen as an option for OVI units.

## Mark definition:

The Unisyn Open Elect 1.1 system will consistently recognize a contiguous mark that is placed fully within the designated target area and fills 20% of the total target, or alternatively, a 1mm wide line across the full length of the target area. Both types of marks must be made with a marking device with sufficiently low reflectance in the visible red band and is of sufficient density/color such that the scanner registers it as black. Most blue, black and green ballpoint pens and markers also meet necessary reflectance requirements and may be used.

## Tested Marking Devices:

Various commercially available marking implements were tested on the Unisyn OpenElect 1.1 scanner to determine their acceptability and readability when used with the Visible Spectrum scanners used. Forty-six pens and pencils were tested, based on the following criteria:

- A. A prior indication of mixed results regarding scanning success using older technology (with either PDI or competitive scanners).
- B. Writing implements reported as problem markers by several State Lotteries.
- C. Common writing instruments used throughout the U.S. and Canada.

D. Background colors (primarily red and yellow tones) were excluded, based on their usage as background colors (See Appendix E of the TDP).

The following 46 implements achieved 100% read reliability, regardless of the type of mark made, or its size. The following is a list of the type of writing instruments tested:

No.	Color	Mfg. Brand Name	Description
1	Black	Uniball	Ballpoint medium
2	Black	Zebra	Felt-tip medium
3	Black	Scripto Easy Roller	Ballpoint fine
4	Black	Paper Mate (Write Bros.)	Ballpoint fine
5	Black	Spectra	Ballpoint fine
6	Black	Magic Marker	Liquid Crayon Felt-tip medium
7	Black	Flair	Felt-tip medium
8	Black	Wearever Laundry	Ballpoint fine
9	Black	Uniball	Ballpoint fine
10	Blue	Magic Marker	Liquid Crayon Felt-tip medium
11	Blue	Scripto	Easy Roller Ballpoint
12	Blue	Flair	Felt-tip
13	Blue	Magic Marker	Super Hard Felt-tip very fine
14	Blue	Paper Mate (Write Bros.)	Ballpoint
15	Blue	Magic Marker	Liquid Crayon Felt-tip
16	Blue	Blue/White Pen	Ballpoint
17	Blue	Flair	Felt-tip
18	Blue	Flash	Felt-tip
19	Blue	Flash	Felt-tip
20	Blue	Buffalo Artist #10	Felt-tip large
21	Blue	Big Office Market	Felt-tip
22	Black	Berol Eagle	Felt-tip large
23	Black	Flash	Felt-tip
24	Black	Flash	Felt-tip
25	Blue	Superiter	Felt-tip
26	Blue	Bic Biro	Ballpoint fine
27	Blue	Berol Roller	Roller Liner 5900 Ballpoint
28	Black	Bic Biro	Biro Ballpoint medium
29	Blue	Wonderiter	Ballpoint
30	Black	Pinpoint Faber-Castell	Ballpoint
31	Blue	Bic	Ballpoint fine
32	Black	Bic	Ballpoint
33	Black	Paper Mate	Ballpoint
34	Green	Superiter	Felt-tip
35	Blue	Dixon	Pencil

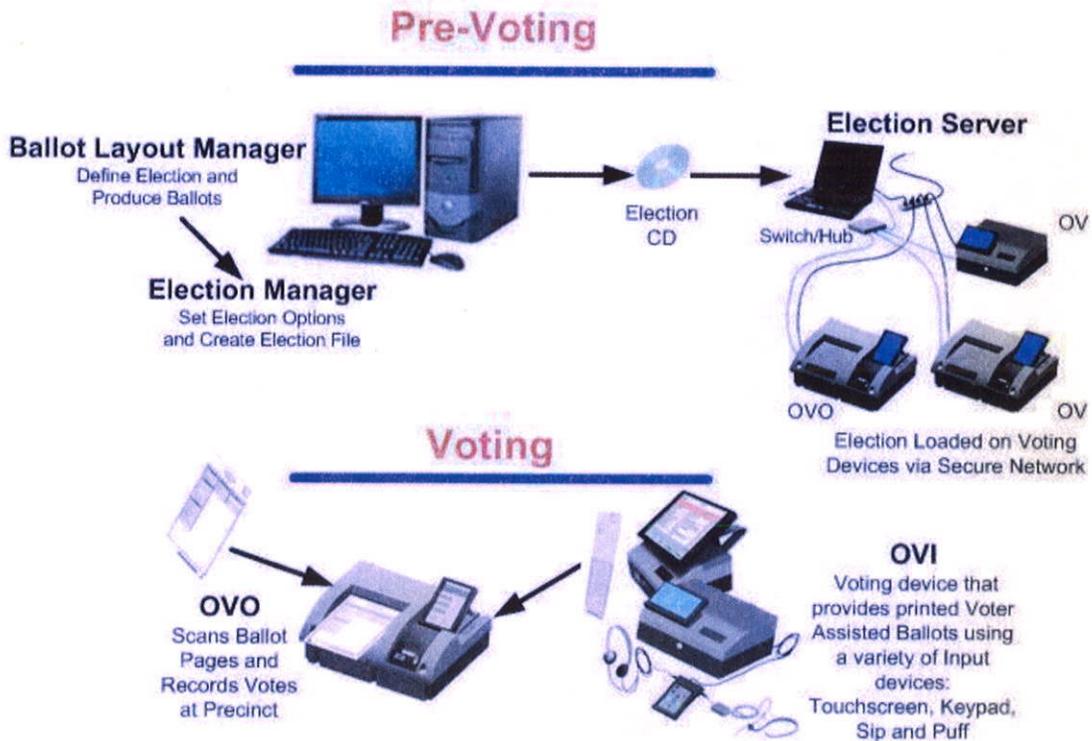
36	Green	Magic Marker	Liquid Crayon Felt-tip
37	Black	Pilot	Ballpoint
38	Green	Berol	Felt-tip
39	Green	Color Brite	Pencil
40	Brown	Buffalo	Felt-tip large
41	Brown	Magic Marker	Felt-tip large
42	Brown	Pentel	Felt-tip large
43	Green	Pentel	Felt-tip large
44	Purple	Pentel	Felt-tip large
45	Purple	Magic Marker	Felt-tip large
46	Purple	Pentel	Felt-tip large

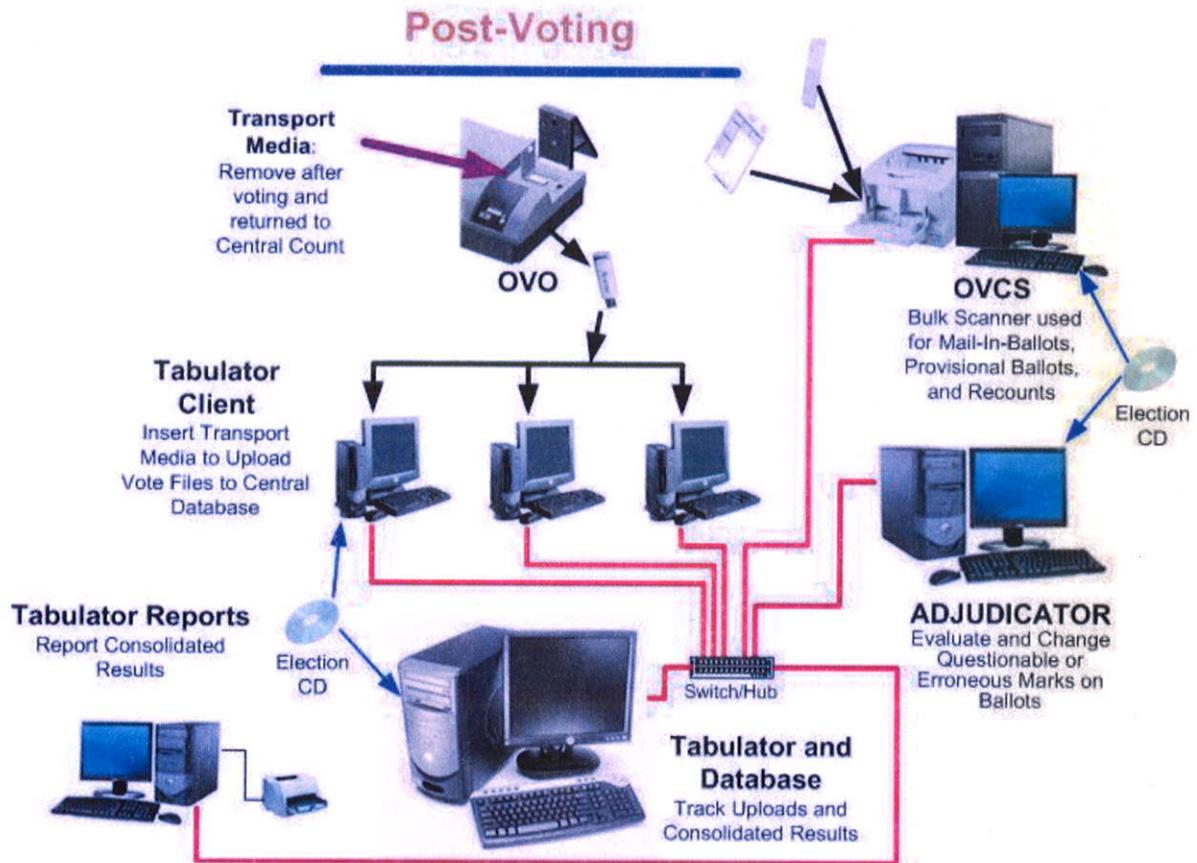
**Language capability:**

System supports English (default), Armenian, Cambodian, Cantonese, Chinese, Japanese, Korean, Mandarin, Russian, Spanish, Tagalog, and Vietnamese. Any language not explicitly listed here is not supported.

**Components Included:**

This section provides information describing the components and revision level of the primary components included in this Certification.





System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
OVO	1.1.0	Rev. E	Linux CentOS 5.0	
OVI – 7' Screen	1.1.0	Rev. F	Linux CentOS 5.0	
OVI – 15' Screen	1.1.0	Rev. A	Linux CentOS 5.0	
OVCS	1.1.0	Hardware v. 1.0	Linux CentOS 5.2	
Ballot Layout Manager (BLM)	1.1.0	--	--	+ Database amendment for font size – see EAC CCR0001
Election Manager(EM)	1.1.0	--	--	
Software Server(SS)	1.1.0	--	--	
Election Server(ES)	1.1.0	--	--	
Tabulator Client(TC)	1.1.0	--	--	
Tabulator(Tab)	1.1.0	--	--	
Tabulator Reports(TR)	1.1.0	--	--	

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
Adjudicator	1.1.0	--	--	
Scripter	1.1.0	--	--	
Validator	1.1.0	--	--	
Logger (Library)	1.1.0	--	--	
<b>COTS Components</b>				
Desktop	--	Dell Precision T3500	Dell	PC, Intel Core2Duo 2.4 GHZ or faster processor, 300GB Hard Drive, 4GB 1333 MHZ Memory.
Desktop	--	Dell Optiplex 755	Dell	PC, Intel Core2Duo 2.53 GHZ or faster processor, 4 GB RAM. 250 GB hard drive (Mirrored) 16x DVD-RW +/- drive, 3.5 inch drive, Super VGA or higher resolution video adapter and monitor, appropriatedrivers
Laptop	--	Latitude E5500	Dell	Intel Core2Duo T7250 2.0 GHz , 800 MHz 2.00 GB Ram
Linux	CentOS 5.0/5.7	--	Sun Microsystems	
MySQL Database	5.0.45-7	--	Sun Microsystems	
MySQL connector	5.1.7	--	Sun Microsystems	
Java JRE	6.0 update 2	--	Sun Microsystems	
Java SE Development Kit	6.0 update 2	--	Sun Microsystems	
JavaHelp	2.0_05	--	Sun Microsystems	
Java Cryptography	Jurisdiction Policy Files 6	--	Sun Microsystems	

System Component	Software or Firmware Version	Hardware Version	Operating System or COTS	Comments
Extension				
JasperReports (and supporting libraries)	2.0.5	--	JasperSoft	
Apache Tomcat	6.0.13	--	Apache	
PDI Scanner Driver and Libraries for OVCS	libvbscore.so.1.3.0 libpdiproc.so.1.2.1 libomrcore.so.1.2.4 libimgcore.so.1.3.0 libPDIScan.so.2.1.3 libusb-1.0.so.0.0.0 libxml2.so.2.6.30	--	Peripheral Dynamic Inc.	Eight files in library
Citizen Printer for OVO	1.0.0.6	--	Citizen Mico Human Tech	
openChrome Video Driver	0.2.900-7.e15	--	openChrome	
eGalax Touchscreen Driver	2.03.1712 (32 bit) Kernel 2.6	--	eGalax	
PDI Scanner Driver and Libraries for OVO	libvbscore.so.1.3.0 libpdiproc.so.1.2.1 libomrcore.so.1.2.4 libimgcore.so.1.3.0 libPDIScan.so.6.3.14 pdi_ps3_drv_scanner.ko	--	Peripheral Dynamic Inc.	Five files in library
FVWM Desktop Window Manager	2.4.19	--	FVWM	
RXTX - Library and Jar for serial printer	2.1-7r2	--	RXTX	

### System Limitations

This table depicts the limits the system has been tested and certified to meet.

Characteristic	Limiting Component	Limit	Comment
Maximum Elections	BLM	8	
Maximum Precincts in Election	BLM	2000	
Maximum Splits per Precinct	BLM	9	
Maximum Districts	BLM	400	
Maximum Contest per District	BLM	20	

Characteristic	Limiting Component	Limit	Comment
Maximum Parties	BLM	24	
Maximum Parties in Primary	BLM	12	
Maximum Parties w/ Straight Ticket	BLM	12	
Maximum District Types	BLM	25	
Maximum Languages	BLM	10	
Maximum Ballot Styles per Election	BLM	400	
Maximum Contest per Election	BLM	150	There are 150 possible places for contest. However due to ballot constraints a maximum of 81 will fit with single candidates for each.
Maximum Measures per Election	BLM	30	
Maximum Instruction Blocks per Election	BLM	5	
Maximum Headers per Election	BLM	50	
Maximum Candidates per Contest	BLM	120	
Maximum Vote for N of M	BLM	25	
Maximum Ballots per OVO	BLM	5000	
Maximum Card Stock Size	BLM	8.5 x 11, 14, 17, 19 & 21 (Simplex & Duplex)	
Maximum Ballot positions (8.5 x 11) without Rank Choice Voting	BLM	228	Limit
Maximum Ballot positions (8.5 x 14) without Rank Choice Voting	BLM	300	Limit
Maximum Ballot positions (8.5 x 17) without Rank Choice Voting	BLM	372	Limit
Maximum Ballot positions (8.5 x 19) without Rank Choice Voting	BLM	420	Limit
Maximum Ballot positions (8.5 x 21) without Rank Choice Voting	BLM	468	Limit
Maximum Ballot positions (8.5 x 11) with Rank Choice Voting	BLM	456	Limit
Maximum Ballot positions (8.5 x 14) with Rank Choice Voting	BLM	600	Limit
Maximum Ballot positions (8.5 x 17) with Rank Choice Voting	BLM	744	Limit
Maximum Ballot positions (8.5 x 19) with Rank Choice Voting	BLM	840	Limit
Maximum Ballot positions (8.5 x 21) with Rank Choice Voting	BLM	936	Limit
Maximum Ballot Style per OVO	BLM	30/9/10	

Characteristic	Limiting Component	Limit	Comment
Maximum Ballots Processed (Ballot Box)	Ballot Box	2500	
Maximum Units Simultaneously Loading	Election Server	20	
Maximum Precincts initialized per OVO	OVO	30	
Maximum Precincts initialized per OVO in Early Voting	OVO	All	

## Functionality

### 2005 VVSG Supported Functionality Declaration

Feature/Characteristic	Yes/No	Comment
Voter Verified Paper Audit Trails		
VVPAT	No	Not Applicable
Accessibility		
Forward Approach	Yes	
Parallel (Side) Approach	Yes	
Closed Primary		
Primary: Closed	Yes	
Open Primary		
Primary: Open Standard (provide definition of how supported)	Yes	Separate ballotstyles for each party
Primary: Open Blanket (provide definition of how supported)	No	
Partisan & Non-Partisan:		
Partisan & Non-Partisan: Vote for 1 of N race	Yes	
Partisan & Non-Partisan: Multi-member ("vote for N of M") board races	Yes	
Partisan & Non-Partisan: "vote for 1" race with a single candidate and write-in voting	Yes	
Partisan & Non-Partisan "vote for 1" race with no declared candidates and write-in voting	Yes	
Write-In Voting:		
Write-in Voting: System default is a voting position identified for write-ins.	Yes	
Write-in Voting: Without selecting a write in position.	No	
Write-in: With No Declared Candidates	Yes	
Write-in: Identification of write-ins for resolution at central count	Yes	
Primary Presidential Delegation Nominations & Slates:		
Primary Presidential Delegation Nominations: Displayed delegate slates for each presidential party	Yes	
Slate & Group Voting: one selection votes the slate.	No	

Feature/Characteristic	Yes/No	Comment
<b>Ballot Rotation:</b>		
Rotation of Names within an Office; define all supported rotation methods for location on the ballot and vote tabulation/reporting	Yes	Top to Bottom, Bottom to Top rotation. Either for whole contest or within party in contest.
<b>Straight Party Voting:</b>		
Straight Party: A single selection for partisan races in a general election	Yes	
Straight Party: Vote for each candidate individually	Yes	
Straight Party: Modify straight party selections with crossover votes	Yes	
Straight Party: A race without a candidate for one party	Yes	
Straight Party: "N of M race (where "N">1)	Yes	
Straight Party: Excludes a partisan contest from the straight party selection	Yes	
<b>Cross-Party Endorsement:</b>		
Cross party endorsements, multiple parties endorse one candidate.	No	
<b>Split Precincts:</b>		
Split Precincts: Multiple ballot styles	Yes	
Split Precincts: P & M system support splits with correct contests and ballot identification of each split	Yes	
Split Precincts: DRE matches voter to all applicable races.	No	Not Applicable
Split Precincts: Reporting of voter counts (# of voters) to the precinct split level; Reporting of vote totals is to the precinct level	Yes	
<b>Vote N of M:</b>		
Vote for N of M: Counts each selected candidate, if the maximum is not exceeded.	Yes	
Vote for N of M: Invalidates all candidates in an overvote (paper)	Yes	
<b>Recall Issues, with options:</b>		
Recall Issues with Options: Simple Yes/No with separate race/election. (Vote Yes or No Question)	Yes	
Recall Issues with Options: Retain is the first option, Replacement candidate for the second or more options (Vote 1 of M)	No	
Recall Issues with Options: Two contests with access to a second contest conditional upon a specific vote in contest one. (Must vote Yes to vote in 2 <sup>nd</sup> contest.)	No	
Recall Issues with Options: Two contests with access to a second contest conditional upon any vote in contest one. (Must vote Yes to vote in 2 <sup>nd</sup> contest.)	No	
<b>Cumulative Voting</b>		

Feature/Characteristic	Yes/No	Comment
Cumulative Voting: Voters are permitted to cast, as many votes as there are seats to be filled for one or more candidates. Voters are not limited to giving only one vote to a candidate. Instead, they can put multiple votes on one or more candidate.	No	
<b>Ranked Order Voting</b>		
Ranked Order Voting: Voters can write in a ranked vote.	Yes	
Ranked Order Voting: A ballot stops being counting when all ranked choices have been eliminated	Yes	
Ranked Order Voting: A ballot with a skipped rank counts the vote for the next rank.	Yes	
Ranked Order Voting: Voters rank candidates in a contest in order of choice. A candidate receiving a majority of the first choice votes wins. If no candidate receives a majority of first choice votes, the last place candidate is deleted, each ballot cast for the deleted candidate counts for the second choice candidate listed on the ballot. The process of eliminating the last place candidate and recounting the ballots continues until one candidate receives a majority of the vote	Yes	
Ranked Order Voting: A ballot with two choices ranked the same, stops being counted at the point of two similarly ranked choices.	Yes	
Ranked Order Voting: The total number of votes for two or more candidates with the least votes is less than the votes of the candidate with the next highest number of votes, the candidates with the least votes are eliminated simultaneously and their votes transferred to the next-ranked continuing candidate.	No	Support simultaneous elimination of two candidates, but votes transferred to next rank.
<b>Provisional or Challenged Ballots</b>		
Provisional/Challenged Ballots: A voted provisional ballots is identified but not included in the tabulation, but can be added in the central count.	Yes	Manually
Provisional/Challenged Ballots: A voted provisional ballots is included in the tabulation, but is identified and can be subtracted in the central count	Yes	Manual Adjustment
Provisional/Challenged Ballots: Provisional ballots maintain the secrecy of the ballot.	Yes	
<b>Overvotes (must support for specific type of voting system)</b>		
Overvotes: P & M: Overvote invalidates the vote. Define how overvotes are counted.	Yes	
Overvotes: DRE: Prevented from or requires correction of overvoting.	No	Not Applicable

Feature/Characteristic	Yes/No	Comment
Overvotes: If a system does not prevent overvotes, it must count them. Define how overvotes are counted.	Yes	Votes are invalidated but overvotes are recorded and available in over/under report
Overvotes: DRE systems that provide a method to data enter absentee votes must account for overvotes.	No	Not Applicable
<b>Undervotes</b>		
Undervotes: System counts undervotes cast for accounting purposes	Yes	
<b>Blank Ballots</b>		
Totally Blank Ballots: Any blank ballot alert is tested.	Yes	
Totally Blank Ballots: If blank ballots are not immediately processed, there must be a provision to recognize and accept them	Yes	
Totally Blank Ballots: If operators can access a blank ballot, there must be a provision for resolution.	Yes	
<b>Networking</b>		
Wide Area Network – Use of Modems	No	
Wide Area Network – Use of Wireless	No	
Local Area Network – Use of TCP/IP	Yes	For election loading, results upload to central tabulation
Local Area Network – Use of Infrared	No	
Local Area Network – Use of Wireless	No	
FIPS 140-2 validated cryptographic module	No	
<b>Used as (if applicable):</b>		
Precinct counting device	Yes	
Central counting device	Yes	

### Baseline Certification Engineering Change Order's (ECO)

This table depicts the ECO's certified with the voting system:

Change ID	Date	Component	Description	Inclusion
EAC# 1002	8/29/2011	OVO/OVI	Change in AC/DC part number	Mandatory
EAC# 1004	10/13/2011	OVO/OVI	Add Power Supply	Optional
EAC# 1005	8/29/2011	OVI	Changes to the thermal head and the cutter unit for the TSP700II	Optional
EAC# 1006	8/29/2011	OVI	Update the part number for the TSP700II thermal printer cutter unit	Optional

Change ID	Date	Component	Description	Inclusion
EAC# 1007	9/29/2011	OVO/OVI	Added an additional flash drive to the approved list. STEC Industrial Grade USB Flash Drive, 1GB, P/N SLUFD1GU2TU	Optional
EAC# 1008	10/13/2011	OVO/OVI	Added an alternate power supply	Optional
EAC# 1009	9/9/2009	OVO/OVI	Western Digital 3200AAKX 320GB SATA added	Optional
ECO#16865	8/29/2011	OVO/OVO	Updates to the build of materials	Mandatory
ECO#16869	7/16/2011	OVO/OVI	Jetway J7F2WE1G5S-OC-LF motherboard added	Optional
ECO#16870	9/29/2011	OVO	Multiple changes to drawings	Mandatory
ECO#16871	9/29/2011	OVI	Spacer removed between motherboard and PC case	Mandatory
ECO#16877	12/13/2011	OVO	Additional ballot box	Optional
IR 00515	9/29/2011	OVI	Changes made to PC box	Optional
IR 00552	12/9/2009	OVI	15 inch screen added to OVI	Optional
CFAC 1001	9/26/2011	OVO/OVI	Modified configuration file xorg.conf to set screen resolution to enforced appropriate resolution	Mandatory



**U. S. ELECTION ASSISTANCE COMMISSION**  
VOTING SYSTEM TESTING AND CERTIFICATION PROGRAM  
1201 New York Avenue, NW, Suite 300  
Washington, DC. 20005

May 18, 2012

Chris Ortiz, Certification Manager  
Unisyn Voting Solutions  
2310 Cousteau Court.  
Vista, CA 92081

**Sent via e-mail**

**Re: Agency Decision – De Minimis**

Mr. Ortiz,

As required under Section 3.5 of the EAC's Voting System Testing and Certification Program Manual, Unisyn Voting Solutions and Wyle Laboratories have provided the necessary information related to the OpenElect 1.0, 1.0.1, and 1.1 voting system in order to verify that the following changes are de minimis and do not require any additional testing:

1. ECO 16869 – Change in Motherboard

Based on the review of the documentation above the EAC has determined that the changes do not negatively impact Unisyn OpenElect Voting System 1.0, 1.0.1, or 1.1 certification to the 2005 Voluntary Voting System Guidelines (2005 VVSG). The EAC therefore approves the proposed changes. Please update and resubmit your TDP and system identification tools if necessary to reflect the changes made to the certified system.

If you have any questions or need further information, please do not hesitate to contact Brian Hancock or Joshua Franklin at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Hancock".

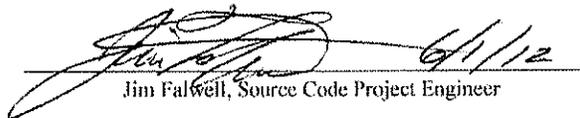
Director, Testing and Certification



7800 Highway 20 West  
Huntsville, Alabama 35806  
Phone (256) 837-4411  
Fax (256) 721-0144  
[www.wyle.com](http://www.wyle.com)

**ENGINEERING ANALYSIS REPORT  
FOR  
UNISYN  
CFAC #1102**

Prepared by:

  
Jim Falwell, Source Code Project Engineer



NVLAP LAB CODE 100710

COPYRIGHT BY WYLE. THE RIGHT TO REPRODUCE, COPY, EXHIBIT, OR OTHERWISE UTILIZE ANY OF THE MATERIAL CONTAINED HEREIN WITHOUT THE EXPRESS PRIOR PERMISSION OF WYLE IS PROHIBITED. THE ACCEPTANCE OF A PURCHASE ORDER IN CONNECTION WITH THE MATERIAL CONTAINED HEREIN SHALL BE EQUIVALENT TO EXPRESS PRIOR PERMISSION. WYLE SHALL HAVE NO LIABILITY FOR DAMAGES OF ANY KIND TO PERSON OR PROPERTY, INCLUDING SPECIAL CONSEQUENTIAL DAMAGES, RESULTING FROM WYLE'S PROVIDING THE SERVICES COVERED BY THIS REPORT.



EAC Lab Code 0704

---

## 1.0 INTRODUCTION

This report covers Wyle's analysis of Unisyn Configuration File Approval Change (CFAC) #1102, dated June 01, 2012. This analysis was performed to determine the impact of a rules dev file change implemented by Unisyn due to the release of the EAC Notice of Clarification (NOC) 2011-01 "Clarification of De Minimis Change Determination Requirements Related to Data".

The intent of this change is to add the "sync" option to the udev rules for the TM and CF USB storage drives to enforce synchronized I/O for the storage media.

The sync option forces all data I/O for the USB drive to be written immediately instead of using cache. This increases the system's tolerance to sudden power loss and prevents the possible corruption by enforcing that all data is immediately written to the USB storage drives instead of writing to the cache buffer. Syncing does result in a slight slowing down of file transfer speeds. It should be noted that this option experienced prior use and testing in the 1.0 and 1.0.1 versions of the OVO, and is in the 1.0 and 1.1 versions of the OVI.

The following information is pertinent to this analysis:

- 15-usb.rules-new (15-usb.rules)
- 16-usb.rules-new (16-usb.rules)

## 2.0 ANALYSIS

Background investigation was performed by comparing the original sets of rules to the submitted new sets of rules named above, 15-usb.rules-new and 16-usb.rules-new.

The files each contained 4 instruction lines – all of which were exactly identical except for one of the lines. The line of difference is listed here for reference.

ORIGINAL LINE (15-usb.rules-org):

```
ACTION=="add", KERNEL=="sd[a-z][0-9]", ID=="5-6", RUN+="/bin/mount -t auto -o  
rw,noauto,dirsync,noexec,nodev,noatime,uid=500,gid=501,umask=007, /dev/%k /mnt/disk",  
OPTIONS="last_rule"
```

NEW LINE (15-usb.rules-new):

```
ACTION=="add", KERNEL=="sd[a-z][0-9]", ID=="5-6", RUN+="/bin/mount -t auto -o  
rw,noauto,sync,dirsync,noexec,nodev,noatime,uid=500,gid=501,umask=007, /dev/%k /mnt/disk",  
OPTIONS="last_rule"
```

ORIGINAL LINE (16-usb.rules-org):

```
ACTION=="add", KERNEL=="sd[a-z][0-9]", ID=="5-8", RUN+="/bin/mount -t auto -o  
rw,noauto,dirsync,noexec,nodev,noatime,uid=500,gid=501,umask=007, /dev/%k /mnt/backup",  
OPTIONS="last_rule"
```

NEW LINE (16-usb.rules-new):

---

```
ACTION=="add", KERNEL=="sd[a-z][0-9]", ID=="5-8", RUN+="/bin/mount -t auto -o  
rw,noauto,sync,dirsync,noexec,nodev,noatime,uid=500,gid=501,umask=007, /dev/%k  
/mnt/backup", OPTIONS="last_rule"
```

Careful inspection of the difference lines will verify that the only difference in the stated data is the single word, "sync", between the original and new command lines.

### 3.0 CONCLUSION

It is Wyle's VSTL opinion that no hardware or software change has been affected by changing the rules files, but only the USB mounting options that may affect a speed change in the transfer of data. Wyle deems this change as De Minimis.

### OpenElect 1.1 Enhancements

Item	Description	Test
E-01	Support for multi-page ballots added. The system supports up to three single or double sided pages.	FCA, Accuracy Test
E-02	The manufacturers ID on USB drives are no longer being validated.	PCA, FCA
E-03	The Tabulator application now supports N of M voting in Ranked Choice Voting contests.	FCA
E-04	Operating system is now installed/created using the default CentOS distribution and Unisyn's configuration files on a USB drive.	PCA
E-05	OVO and OVCS driver updates.	Compliance Build, Trusted Build
E-06	The system functionality has been expanded to support the following ballot lengths: 11, 14, 17, 19 & 21 inch.	FCA
E-07	Screen Calibration is now a selectable option on the OVO and OVI interface.	FCA
E-08	In the EM application, an option can be set for the election which will cause ballot alerts to display on the OVO screen during voting.	FCA
E-09	Support for single sided ballots has been added to the BLM application.	FCA
E-10	The BLM application allows the user to manage the length of the stub at the top of printed paper ballots.	FCA
E-11	In the BLM application, multiple font sizes are available for printing and display of candidates on the ballot.	FCA
E-12	In the BLM application, party icons can now be placed next to candidates on the ballot.	FCA
E-13	Measures can extend the full width of the ballot page, in the BLM application.	FCA
E-14	In the BLM application, additional text can now be added under the "Vote For" text in a contest header.	FCA
E-15	The BLM application validates that the selected font sizes fit in the available space on the ballot. This is a background process.	FCA
E-16	The BLM application can create sample ballots which contain no barcodes or timing marks and have the word "Sample" down the middle of the ballot.	FCA
E-17	In the BLM application, blank space can be inserted between contests on the ballot.	FCA
E-18	The height of the ballot header can be set as 1" or 2".	FCA
E-19	Grey vote selection boxes are now supported by the system.	FCA
E-20	In the BLM application, candidates can be setup so that they take up multiple ¼" spaces on the ballot.	FCA
E-21	An increased amount of text is allowed in the contest headers, depending on size and font, when laying out a contest in the BLM application.	FCA

E-22	A user with proper permissions can remove an uploaded OVO or OVCS session from a Run, in the Tabulator application.	FCA
E-23	In the Tabulator application, valid write-in candidates can be added to a contest, so that votes can be assigned to the candidate through adjudication.	FCA
E-24	More detail has been added on upload, to show precincts that have and have not been uploaded, in the Tabulator application.	FCA
E-25	A Precinct Summary report has been added to the Tabulator Reports application. The Precinct summary can be displayed and printed as an official or unofficial report.	FCA
E-26	MySQL logs that reach a certain size are closed and new ones are created.	PCA, Security
E-28	Print notification security update to the OCS operating system.	FCA, Security
E-29	Intrusion detection security update to the OCS operating system.	FCA, Security
E-30	Software packages included in the CentOS operating system will be upgraded to protect against security vulnerabilities.	FCA, Security
E-31	OCS applications archive audit log entries 22 months or older. The entries are placed in a PDF file then removed from the database.	FCA
E-32	The OVO can export ballot page images to the TM for use in adjudication. This functionality is available from the Maintenance menu.	FCA, Volume and Stress
E-33	Political party icons can be displayed on the OVI screen while voting.	FCA
E-34	The OVCS displays which ballot in a sequence of ballots fed into the OVCS, is invalid.	FCA
E-35	EM can now export elections that contain multiple customer keys.	FCA
E-36	An expiration date has been added to registration keys, for licensing purposes.	FCA, Security
E-37	Registration Key validation has been added to the OCSInstaller application.	PCA, Security
E-38	A TOC (validation file) is created for each OCS application on install, so that the OCS applications can validate themselves each time the application is opened.	PCA, Security
E-39	After 24 months, the system releases old unused passwords so they can be reused.	FCA, Security
E-40	Adjudicator application has been added as a component of the system.	FCA, System Integration
E-41	Candidate rotation by party within a contest.	FCA
H-1	15 Inch OVI	Hardware



**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY**

June 14, 2012  
Kent D. Younce, Chairman  
TN State Election Commission  
423 Fairway Drive  
Lafollette, TN 37766

DAVIDSON COUNTY ELECTION COMMISSION  
PERMANENT REGISTRATION OFFICE  
POST OFFICE BOX 650  
NASHVILLE, TN 37202  
(615) 862-8800

Dear Chairman Younce,

I accept the verbal reprimand issued by the State Election Commission on May 14, 2012, for the error of not being open on Saturday, February 18, 2012, during the Early Voting period for the Presidential Preference Primary Election. I did not intend to violate the law and I apologize for the error.

Sincerely,

Albert U. Tieche

Cc: Judy H. Blackburn  
Tom DuBois  
Greg Duckett  
Tommy Head  
James H. Wallace, Jr.  
Tom Wheeler, Secretary

AUT/cm

RECEIVED  
2012 JUN 17 AM 10:29  
SECRETARY OF STATE  
ELECTIONS



FOCUS™ Terms  Search Within **Original Results (1 - 1)** Advanced...

View **Full**

↔ 1 of 1 ↔

[View Tutorial](#)



[Return to Results](#) | [Book Browse](#)

**Tenn. Code Ann. § 2-5-214** (Copy w/ Cite)

Pages: **1**

*Tenn. Code Ann. § 2-5-214*

TENNESSEE CODE ANNOTATED  
© 2012 by The State of Tennessee  
All rights reserved

\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*

Title 2 Elections  
Chapter 5 Ballots and Supplies  
Part 2 Ballots and Supplies

Tenn. Code Ann. § 2-5-214 (2012)

**2-5-214. Ballot boxes.**

(a) The county election commission shall furnish for each polling place and for absentee voting at the commission office, locks and standard ballot boxes made of metal or such other material deemed as safe, durable, and secure by the coordinator of elections and the state election commission.

(b) The coordinator of elections shall prescribe the dimensions for such boxes, making allowance for the differences in numbers of voters using paper ballots at the various polling places.

(c) The county election commission shall prescribe and provide the type of lock and seals to be used.

**HISTORY:** Acts 1972, ch. 740, § 1; T.C.A., § 2-520; Acts 1985, ch. 78, § 1; 1993, ch. 518, §§ 15, 21; 1994, ch. 859, § 9.

View **Full**

↔ 1 of 1 ↔



[Return to Results](#) | [Book Browse](#)

**Tenn. Code Ann. § 2-5-214** (Copy w/ Cite)

Pages: 1

In

[About LexisNexis](#) | [Privacy Policy](#) | [Terms & Conditions](#) | [Contact Us](#)  
Copyright © 2012 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

FOCUS™ Terms  Search Within **Original Results (1 - 1)**  Advanced...View **Full** ✪ 1 of 1 ✪ [View Tutorial](#)[Return to Results](#) | [Book Browse](#)**Tenn. Code Ann. § 2-6-311** (Copy w/ Cite)Pages: **2***Tenn. Code Ann. § 2-6-311*TENNESSEE CODE ANNOTATED  
© 2012 by The State of Tennessee  
All rights reserved

\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*

Title 2 Elections  
Chapter 6 Absentee Voting  
Part 3 General Provisions

Tenn. Code Ann. § 2-6-311 (2012)

**2-6-311. Absentee ballot boxes -- Requirements.**

(a) Absentee ballot boxes shall meet the requirements for standard ballot boxes under § 2-5-214, have at least two (2) hasps for locks, and be equipped with baffles so that ballots cannot be removed without unlocking the box.

(b) The ballot boxes shall be locked at the beginning of absentee voting with one (1) lock from a county election commissioner of one (1) party and another lock provided by a commissioner of another party. The commissioners shall retain the keys personally. The boxes may not be unlocked except when the votes are to be counted.

(c) In addition to the locks required in subsection (b), the county election commission shall place two (2) numbered seals on each ballot box at the beginning of absentee voting with one (1) seal placed by a county election commissioner of each party. Such seal numbers shall be recorded by the administrator of elections and certified in duplicate by one (1) commissioner of each party, and the original shall be forwarded by mail immediately to the office of the coordinator of elections and the duplicate shall be filed in the election commission office. The seals may not be broken except when the votes are to be counted. If a seal or seals are broken, the administrator shall immediately attach new numbered seals and certify in writing to the coordinator of elections the numbers and a description of the circumstances necessitating this action.

**HISTORY:** Acts 1972, ch. 740, § 1; T.C.A., § 2-6-27; Acts 1984, ch. 636, § 2; 1993, ch. 518, §§ 12, 21; T.C.A., § 2-6-127; Acts 1994, ch. 859, § 2.

View **Full** ✪ 1 of 1 ✪ [Return to Results](#) | [Book Browse](#)**Tenn. Code Ann. § 2-6-311** (Copy w/ Cite)Pages: **2**

In

[About LexisNexis](#) | [Privacy Policy](#) | [Terms & Conditions](#) | [Contact Us](#)  
Copyright © 2012 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

FOCUS™ Terms  Search Within  Advanced...

View

1 of 1

View Tutorial

Book Browse

**Tenn. Code Ann. § 2-7-112** (Copy w/ Cite)  
*Tenn. Code Ann. § 2-7-112*

Pages: 8

TENNESSEE CODE ANNOTATED  
© 2012 by The State of Tennessee  
All rights reserved

\*\*\* CURRENT THROUGH THE 2011 REGULAR SESSION \*\*\*

Title 2 Elections  
Chapter 7 Procedure at the Polling Place

Tenn. Code Ann. § 2-7-112 (2012)

**2-7-112. Procedure for voting. [Amended effective January 1, 2012. See the Compiler's Notes.]**

(a) [Amended January 1, 2012. See the Compiler's Notes.] (1) A voter shall complete and sign an application for ballot, indicate the primary in which the voter desires to vote, if any, and present it to a precinct registrar. In addition, the voter shall present to the precinct registrar one (1) form of identification that bears the name and photograph of the voter. The requirement to present one (1) form of identification that bears the name and photograph of the voter shall apply to persons voting pursuant to § 2-6-109; provided, however, that a person voting in accordance with § 2-6-401(a) and (b) or § 2-6-601 shall not be required to show an identification with a photograph of the voter. The application for ballot shall include a space for the address of the voter's current residence, and the voter shall write or print such address on the application when the voter signs the application for ballot.

(A) Using the computerized voter signature list or the electronic poll book, the registrar shall make a determination whether the voter's address is different from the address on the voter's permanent registration record or if the registration is in inactive status. If the voter has changed residence, or the voter's registration is inactive, the registrar shall follow the procedures for voting pursuant to §§ 2-7-140 and 2-7-141.

(B) To verify the voter's identification, the voter shall supply evidence of identification specified in subsection (c).

(C) If, upon verification of evidence of identification, it is found that the applicant is entitled to vote, the registrar shall initial the application, note the date of the election, the number on the voter's ballot application, and the primary or general election in which the voter applies to vote.

(D) If the applicant's signature is illegible, the registrar shall print the name on the application.

[Effective until January 1, 2012. See the Compiler's Notes.]

(E) If a voter is unable to present any evidence of identification specified in subsection (c), the voter shall be required to execute an affidavit of identity on a form provided by the county election commission.

(2) The county election commission shall use either a computerized voter signature list or an

electronic poll book that has been approved for use by the coordinator of elections. A computerized voter signature list shall include the voter's name, current address of residence, social security number or voter identification number, birth date and a space for the voter's signature, elections voted, application or ballot stub number, or both, and precinct registrar's initials. The electronic poll book shall contain the same information as on the computerized voter signature list in an electronic format and provide a place on its screen for the precinct registrar to record elections voted, application or ballot stub number, or both, the precinct registrar's initials and a place for the voter's signature.

**(A)** For those counties using the computerized voter signature list, the following procedures shall be followed:

**(i)** After completing the application for ballot, the voter shall sign the computerized voter signature list, and the registrar shall compare the voter's signature and information on the signature list with the information on the application for ballot; and

**(ii)** If, upon comparison of the information, the registrar determines that the voter is entitled to vote, the registrar shall initial the computerized voter signature list and shall give the voter the ballot application, which is the voter's authorization to vote.

**(B)** For those counties using the electronic poll book, the following procedures shall be followed:

**(i)** If a county uses an electronic poll book without an attachable printer, then:

**(a)** After completing the application for ballot, the voter shall sign the voter signature list, and the registrar shall compare the voter's signature and information on the voter signature list with the information on the application for ballot; and

**(b)** If, upon comparison of the information, the registrar determines that the voter is entitled to vote, the registrar shall initial the voter signature list and shall give the voter the ballot application, which is the voter's authorization to vote; or

**(ii)** If a county uses an electronic poll book with an attachable printer, then:

**(a)** The application for ballot used by the county may be a preprinted application or an application generated by the electronic poll book;

**(b)** After the application for ballot has been completed, the voter shall sign the application and the registrar shall compare the voter's signature with evidence of identification specified in subsection (c) supplied by the voter and compare information on the electronic poll book with the information on the application for ballot;

**(c)** The voter shall sign the voter signature list; and

**(d)** If, upon comparison of the information, the registrar determines that the voter is entitled to vote, the registrar shall initial the application and the voter signature list and shall give the voter the ballot application, which is the voter's authorization to vote.

**(3)** [Amended January 1, 2012. See the Compiler's Notes.] **(A)** A person shall be entitled to vote a provisional ballot under the procedures of this section if the voter claims to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined by the computer signature list or by examination of the permanent registration records on file with the county election commission or an election official asserts that the individual is not eligible to vote. If a voter is unable to present evidence of identification, the voter shall be entitled to vote a provisional ballot pursuant to subsection (e) unless the voter is eligible to vote pursuant to subsection (f).

**(i)** If the election official cannot determine that the voter's name should have been placed on the precinct's computer signature list, then the voter shall complete an original voter registration application. At the time of registration and pursuant to subsection (d), the voter shall present verification of the residential address under which the person desires to vote.

**(ii)** After the voter has completed the voter registration application and supplied verification of the voter's residential address, the voter shall complete an application for ballot pursuant to this section.

**(iii)** Upon completion of the application for ballot, the voter shall be given a provisional ballot and provisional ballot envelope. The provisional ballot envelope shall be of a different color from absentee ballot envelopes and shall bear a detachable slip that contains the provisional ballot affidavit. The provisional ballot affidavit shall contain the voter's printed name, social security number, date of birth, signature and any other identifying information deemed necessary by the coordinator of elections to satisfy the requirements of this section and to prevent fraudulent registration and voting.

**(iv)** Both the voter registration application and the application for ballot shall be deposited in the provisional ballot box. Nothing in this section shall be construed to allow election day voter registration.

**(v)** Pursuant to § 2-7-114(b) and (c), the voter shall vote the provisional ballot. Any county utilizing punchcard or optiscan technology shall process their ballots pursuant to rules promulgated by the state coordinator of elections. The provisions of § 2-7-116 shall govern any voter needing assistance.

**(vi)** Along with the voter registration applications and the applications for ballot completed by provisional voters, ~~all provisional ballots that have been cast shall remain sealed and locked in the absentee ballot box for return to the county election commission at the close of polls.~~ 2-5-214

**(B) (i)** All provisional ballots shall be counted at the county election commission office by a separate central absentee ballot counting board that has been appointed in like manner to the central absentee ballot counting board established under § 2-6-302 and known as the central provisional ballot counting board. Upon completion of the counting of the absentee ballots, the county election commission may designate the central absentee ballot counting board established under § 2-6-302 as the central provisional ballot counting board. If the county election commission determines that there are fewer than one hundred (100) provisional ballots to be counted, the county election commission may act as the central provisional ballot counting board without additional compensation. When provisional ballots have been cast utilizing punchcard or optiscan technology, the counting of the provisional ballots shall be pursuant to rules promulgated by the state coordinator of elections.

**(ii)** After the delivery of the absentee ballot boxes containing provisional ballots to the county election commission, the central provisional ballot counting board shall unlock and open each absentee ballot box from the polling places in the presence of a majority of the judges.

**(iii)** The central provisional ballot counting board shall examine the records of the county election commission and the records of the Tennessee departments of health, human services, mental health, intellectual and developmental disabilities, safety and veterans affairs with respect to all provisional ballots. The central provisional ballot counting board shall then determine if the person voting that ballot was entitled to vote and met the statutory requirements for registration at the precinct where the person cast a vote in the election. The central provisional ballot counting board shall also determine that the person has not already cast a ballot in the election.

**(iv)** If the central provisional ballot counting board determines that the person should have been registered to vote and met the statutory requirements for registration in the precinct

where the voter cast the ballot and the voter has not cast a ballot in the election in a different precinct, then the central provisional ballot counting board shall remove the provision ballot affidavit from the provisional ballot envelope and place the sealed ballot with all other provisional ballots that have been determined to be countable.

**(v)** If the central provisional ballot counting board determines that the person should not have been registered to vote in the precinct where the voter cast the ballot or that the voter has previously cast a ballot in the election in a different precinct, the provisional ballot envelope shall not be opened nor its provisional ballot affidavit removed, but it shall be marked "Rejected" across its face with the reason for rejection written on it and signed by at least two (2) members of the central provisional ballot counting board. It shall then be placed in the container of rejected absentee ballots. A list shall be made of such rejected ballots, and the administrator shall notify the voters by mail of the rejection and the reason for such rejection.

**(C)** [Amended January 1, 2012. See the Compiler's Notes.] **(i)** The counting of all provisional ballots must be completed within four (4) business days of the close of polls on election day. If the county election commission determines that the counting of provisional ballots cannot be completed by the designated time, the state coordinator of elections may grant the county an extension of time and designate a time that shall be no later than the third Monday after the election.

**(ii)** If the county election commission determines that the counting of provisional ballots cannot be completed during the night of election day and upon the close of each counting session, the absentee ballot boxes containing the provisional ballots must be locked and sealed **in the same manner established in § 2-6-311.** The ballot boxes may not be unlocked except when the central provisional ballot counting board is performing its duties in compliance with this section.

**(b)** If a voter is disabled so as to be unable to write a signature or make a mark, the registrar shall write the voter's name where needed and shall indicate that this has been done by putting the registrar's initials immediately after the name.

[Amended January 1, 2012. See the Compiler's Notes.]

**(c)** For purposes of verifying the person's identification on the application for ballot, "evidence of identification" shall be:

**(1)** A Tennessee driver license;

**(2) (A)** Except as provided in subdivision (c)(2)(B), a valid identification card issued by a branch, department, agency or entity of this state, any other state, or the United States authorized by law to issue personal identification; provided, that such identification card contains a photograph of the voter;

**(B)** An identification card issued to a student by an institution of higher education containing a photograph of a student shall not be evidence of identification for purposes of verifying the person's identification on the application for ballot;

**(3)** A valid identification card issued pursuant to § 55-50-336;

**(4)** A valid United States passport;

**(5)** A valid employee identification card issued by a branch, department, agency or entity of this state, any other state, or the United States authorized by law to issue employee identification; provided, that such identification card contains a photograph of the voter; or

**(6)** A valid United States military identification card; provided, that such identification card contains a photograph of the voter.

**(d)** For purposes of registering a person to vote pursuant to subdivision (a)(3), "verification of residential address" shall include, but is not limited to, a Tennessee driver license, a residential lease agreement, a utility bill or other document bearing the applicant's residential address. Such verification may be on the same or different document from those listed in subsection (c).

[Effective January 1, 2012. See the Compiler's Notes.]

**(e)** A person whose name appears on the computerized voter signature list or the electronic poll book and is unable to present valid evidence of identification specified in subsection (c) shall be entitled to vote a provisional ballot under the procedures of this subsection (e) unless such person is eligible to vote pursuant to subsection (f).

**(1)** The voter shall complete an application for ballot pursuant to this section, and if the voter has changed residence, or the voter's registration is inactive, the voter shall complete a fail safe affidavit. The voter must vote in the precinct in which the person is a resident. The voter shall also be given a written statement that specifies the voter has until the second business day after the election to provide evidence of identification. The voter shall sign such statement and return it along with the application of ballot.

**(2)** Upon completion of the application for ballot and if applicable, the presentation of a fail safe affidavit in the voter's correct polling location, the voter shall be given a provisional ballot and provisional ballot envelope. The provisional ballot envelope shall be a different color from the absentee ballot envelopes and shall bear a detachable slip that contains the provisional ballot affidavit. The provisional ballot affidavit shall contain the voter's printed name, social security number, date of birth, signature and any other identifying information deemed necessary by the coordinator of elections to satisfy the requirements of this section and to prevent fraudulent voting. The application for ballot shall be deposited in the provisional ballot box.

**(3)** Pursuant to § 2-7-114(b) and (c), the voter shall vote the provisional ballot. Any county utilizing optical scan technology shall process their ballots pursuant to rules promulgated by the state coordinator of elections. Section 2-7-116 shall govern any voter needing assistance.

**(4)** Along with the applications for ballot completed by provisional voters, all provisional ballots that have been cast shall remain sealed and locked in the provisional ballot box for return to the county election commission at the close of polls.

**(5)** Provisional ballots cast pursuant to this subsection (e) shall only be counted if the voter provides evidence of identification specified in subsection (c) to the administrator of elections or the administrator's designee by the close of business on the second business day after the election. Evidence of identification must be presented at the voter's county election commission office or another location designated by the county election commission.

**(6)** Upon the voter presenting valid evidence of identification, set forth in subsection (c), to the administrator of elections or the administrator's designee, the voter shall sign an affidavit, prescribed by the coordinator of elections, containing the voter's name, signature and any other information deemed necessary by the coordinator of elections to satisfy the requirements of this section and to prevent fraudulent voting. The affidavit shall also contain a statement affirming under the penalty of perjury that the voter is the same individual that cast the provisional ballot. A photocopy of the evidence of identification shall be attached to the affidavit.

**(7)** The central provisional ballot counting board shall compare the information on the provisional affidavit envelope to the information set forth in subdivision (e)(6). If it is determined that the person provided proper evidence of identification, then the central provisional counting board shall remove the provisional ballot affidavit from the provisional ballot envelope and place the sealed ballot with all provisional ballots to be counted.

(8) If the voter does not provide valid evidence of identification in a timely manner, the provisional ballot envelope shall not be opened nor its provisional ballot affidavit removed, but shall be marked "Rejected" across its face with the reason for rejection written on it and signed by at least two (2) members of the central provisional ballot counting board. The board members signing the provisional ballot affidavit may not be of the same political party. It shall then be placed in the container of rejected ballots. The administrator shall notify the voters by mail of the rejection and the reason for such rejection.

(9) The central provisional ballot counting board shall have until the close of business on the fourth business day after the election to count any provisional ballot cast pursuant to this subsection (e). If the county election commission determines that the counting of provisional ballots cannot be completed by the designated time, the state coordinator of elections may grant the county an extension of time and designate a time that shall be no later than the second Monday after the election.

[Effective January 1, 2012. See the Compiler's Notes.]

(f) A voter who is indigent and unable to obtain proof of identification without payment of a fee or who has a religious objection to being photographed shall be required to execute an affidavit of identity on a form provided by the county election commission and then shall be allowed to vote. The affidavit shall state that:

(1) The person executing the affidavit is the same individual who is casting the ballot; and

(2) The affiant is indigent and unable to obtain proof of identification without paying a fee or has a religious objection to being photographed.

**HISTORY:** Acts 1972, ch. 740, § 1; 1977, ch. 365, § 1; T.C.A., § 2-712; Acts 1984, ch. 935, §§ 4-6; 1989, ch. 590, §§ 4, 5; 1990, ch. 727, § 3; 1997, ch. 550, § 8; 2003, ch. 352, §§ 1-3; 2008, ch. 928, § 14; 2008, ch. 1019, § 1; 2009, ch. 218, § 5; 2010, ch. 1100, § 1; 2011, ch. 323, §§ 1-8; 2011, ch. 386, § 1.

View

1 of 1



Book Browse

**Tenn. Code Ann. § 2-7-112** (Copy w/ Cite)

Pages: 8

In

About LexisNexis | Privacy Policy | Terms & Conditions | Contact Us  
Copyright © 2012 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

## Orange Provisional Bag Fact Sheet

- 1) **Storage space-** With 126 precincts and being one of two Counties in the state that utilize Paper Ballots for Election Day voting our space in the warehouse is very limited.
- 2) **Weight of supplies-** With the average age of a Poll Worker being 72, anything we can do to reduce the weight of the supplies they are responsible for is a huge plus. Sometimes depending on the Election, our paper ballots can weigh up to 40 pounds for the ballots alone.
- 3) **Easily transported-** The metal ballot boxes used in the past have many times cut in to Poll Workers seats as they try to load all of their supplies into their vehicle. Ballot Bags are easily placed in with the rest of supplies. Also at the end of the night the Ballot bags can be placed in the sealed blue supply box ensuring more security.
- 4) **Bag Security-** Bags are locked with two separate locks and sealed with numbered sticker seals. One Commissioner from each party has their respective key as well as the seal number that was placed over the lock.
- 5) **Auditor approved-** Quinten Howard, our Auditor in charge since 1992 from an independent auditing firm checks these bags upon return from the Precincts. He confirmed with us he has never seen signs of tampering and believes they are perfectly secure for serving their purpose.
- 6) **Bags are offer ample storage for Provisional ballots-** Our Provisional Ballot bags can hold an approximate 25-30 Provisional Ballots. The most we have ever had in one bag has been about 4. Therefore the bags offer more than enough space. Should a precinct ever reach near capacity we have spare bags locked and sealed that we can send out. Below is a table outlining the actual number of Provisional Ballots cast since 2006 in Hamilton County.

ELECTION	BALLOTS CAST	PROVISIONAL BALLOTS CAST
August 2006	50,968	10
November 2006	109,424	23
August 2008	30,414	0
November 2008	148,480	78
August 2010	51,809	3
November 2010	87,817	7
March 2012	37,845	1

## Collapsible Ballot Box

Item# 1592-01

The Collapsible Ballot Box is constructed of water-resistant 600 Denier Polyester Canvas and features collapsible side panels. The bag also features two sealable zippered ballot slots. The ballot slot locations enable the ballots to lay flat in the bag thus increasing the amount of usable ballot storage space. Available in red and blue.

### Product Features

- Water-resistant 600 Denier Polyester Canvas fabric
- Collapsible side panels
- Overlapping hasp zipper pulls make for easy sealing of zippers and ballot slots
- Two ballot slots; one on top panel and one on side panel
- Handle straps for easy transportation
- Bag collapses to a height of only 2.5"
- Holds approximately 1,500 ballots

### Product Specifications

- 23.5" L x 12" W x 13.5" H
- 8" x 11" ID window
- Two 9" Ballot Slots



**Printelect**  
YOUR ELECTIONS PARTNER

PO Box 13216 • New Bern, NC 28561  
Toll Free (800) 682-4500 • Fax (252) 637-9320  
[www.printelect.com](http://www.printelect.com) • [sales@printelect.com](mailto:sales@printelect.com)

# Voter's choice

## Ballot Bag

Item# 1916-01

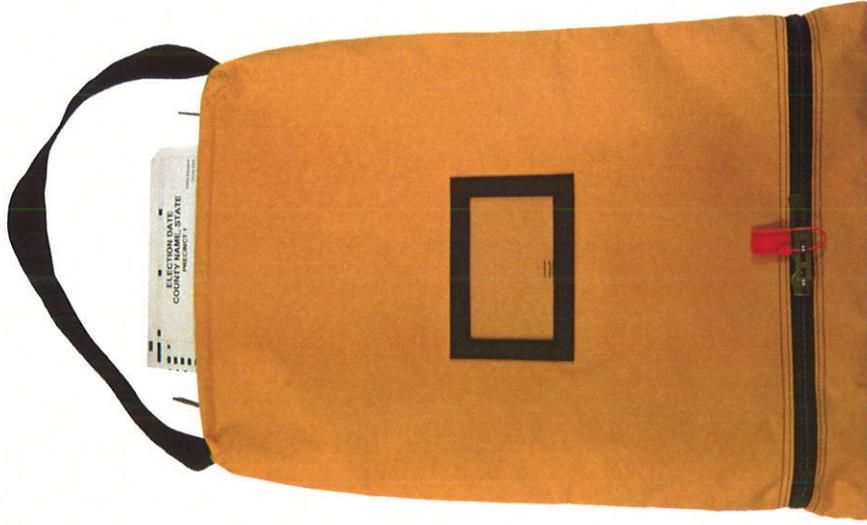
The Voter's Choice Ballot Bag has a built-in sealable ballot slot on top and a sealable zippered opening on the bottom. Made of 600 Denier Polyester Canvas, this bag also features a hanging strap for easy transport and storage. The structured ballot slot blocks access to ballots once they are inserted into the bag. Available in orange and blue.

### Product Features

- Water-resistant 600 Denier Polyester Canvas fabric
- Overlapping hasp zipper pulls make for easy sealing of zipper and ballot slot
- Structured ballot slot and structured access zipper for additional security

### Product Specifications

- 23.5" L x 16" W
- 3" x 5" ID window



**Printelect**  
YOUR ELECTIONS PARTNER

PO Box 13216 • New Bern, NC 28561  
Toll Free (800) 682-4500 • Fax (252) 637-9320  
[www.printelect.com](http://www.printelect.com) • [sales@printelect.com](mailto:sales@printelect.com)

## **TCA § 2-12-101. Commissioners Appointment Removal Legal representation.**

- (a) The state election commission shall appoint, on the first Monday in April of each odd-numbered year, five (5) election commissioners for each county, for terms of two (2) years and until their successors are appointed and qualified. The five (5) commissioners shall be the county election commission.
- (b) The state election commission shall remove a commissioner who becomes unqualified and may remove or otherwise discipline a commissioner for cause.
- (c) County election commissions shall be represented in legal proceedings as follows:
- (1) If the legal proceeding names the county election commissioners as defendants and the lawsuit involves a municipal election, the municipality concerned shall furnish counsel to represent the commissioners;
- (2) If the election involved in the legal proceedings is that of a county election, the county shall furnish counsel for the commissioners and if the election involved in the legal proceedings attacks a state law or presents a question concerning a state or federal election, the attorney general and reporter shall represent the commissioners either by the attorney general and reporter's own staff or by such counsel as the attorney general and reporter may designate;
- (3) The counsel furnished, whether by municipality or county, shall be that chosen by the election commission; and
- (4) If, in order to properly discharge its duties, the county election commission has to bring legal action against a county or municipality, the compensation for the commission's legal representation shall be borne by the county or municipality as the case may be.
- (d) The county election commission created by this section is the immediate successor to the commissioners of elections for each county. Wherever in the Tennessee Code the commissioners of elections for counties are referred to, the term county election commission shall be substituted.

Acts 1972, ch. 740, 1, 7; 1974, ch. 535, 1; 1979, ch. 316, 3; T.C.A., 2-1201; Acts 1980, ch. 609, 6; 1993, ch. 208, 2.

**Section to Section References.** Chapters 1-19 are referred to in 2-13-319.

**Textbooks.** Tennessee Jurisprudence, 10 Tenn. Juris., Elections, 7.

**Attorney General Opinions.** Conflicts of interest involving state and county election commissions, OAG 06-159 (10/9/06).

**Cited:** City of Memphis v. Shelby County Election Comm'n, 146 S.W.3d 531, 2004 Tenn. LEXIS 802 (Tenn. 2004).

### **NOTES TO DECISIONS**

1. Standing of Taxpayers.
2. Payment of Attorney Fees.
3. Storage of Voting Machines.

#### **1. Standing of Taxpayers.**

Suit brought by county district attorney general upon information of 10 taxpayers and citizens of that county, to recover attorneys' fees paid by acting chief executive officer to law firms for services in defending certain election suits, which payment was subsequently ratified by county commission, was properly dismissed for plaintiffs' lack of standing. State ex rel. Vaughn v. King, 653 S.W.2d 727, 1982 Tenn. App. LEXIS 457 (Tenn. Ct. App. 1982).

#### **2. Payment of Attorney Fees.**

This section specifically gives to the county the power to hire attorneys to defend the county election commission in election contests, and where that authority is expressly given, the county executive [now county mayor] should be able to

pay them. The general provisions of 5-6-112 do not dictate otherwise. *State ex rel. Vaughn v. King*, 653 S.W.2d 727, 1982 Tenn. App. LEXIS 457 (Tenn. Ct. App. 1982).

### **3. Storage of Voting Machines.**

Where election commission filed petition for writ of mandamus and declaratory judgment on April 10, 1981, to compel board of commissioners to provide adequate and economically feasible storage for the county's 1,200 voting machines, the lease on the premises where the machines were then being stored being due to expire on April 30, 1981, and the county having failed to exercise its option to renew within 60 days of expiration as required by the lease, the trial court was correct in refusing to issue writ of mandamus and in denying an award of attorneys' fees to the election commission, because the suit was premature, since the county was fulfilling its duty to provide storage for the machines, and the election commission had made no showing that the county would not do so in the future. *State ex rel. Shelby County Election Com. v. Shelby County Bd. of Comm'rs*, 656 S.W.2d 9, 1983 Tenn. App. LEXIS 596 (Tenn. Ct. App. 1983).

### **Decisions Under Prior Law**

1. Status of Commission.
2. Powers of Commission.

#### **1. Status of Commission.**

County election commission could maintain action for declaratory judgment for purpose of determining whether county or city was liable for expenses incurred by commission in holding special referendum election on amendment of city charter under private acts. *Abercrombie v. Chattanooga*, 203 Tenn. 357, 313 S.W.2d 256, 1958 Tenn. LEXIS 311 (1958).

The county election commission is not an arm of the county government. *Abercrombie v. Chattanooga*, 203 Tenn. 357, 313 S.W.2d 256, 1958 Tenn. LEXIS 311 (1958).

The county election commission has its legal existence by virtue of the general law of the state and is not a part of any political subdivision of the state. *Abercrombie v. Chattanooga*, 203 Tenn. 357, 313 S.W.2d 256, 1958 Tenn. LEXIS 311 (1958).

#### **2. Powers of Commission.**

County election commission had authority to hold special referendum election for benefit of city for purpose of determining whether or not city charter was to be amended under provisions of private acts, and city rather than county was liable for expenses of holding such election. *Abercrombie v. Chattanooga*, 203 Tenn. 357, 313 S.W.2d 256, 1958 Tenn. LEXIS 311 (1958).

**Collateral References.** Election officers <

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

October 30, 2002

Opinion No. 02-121

Franklin County Civil Service Board Member as Franklin County Election Commission Member

**QUESTION**

May a member of the Franklin County Election Commission also serve as a member of the Franklin County Civil Service Board?

**OPINION**

No.

**ANALYSIS**

This opinion addresses whether a member of the Franklin County Election Commission may also serve as a member of the Franklin County Civil Service Board. County election commissioners are appointed by the State Election Commission. Tenn. Code Ann. § 2-12-101. Each county election commission supervises the election process, including registering voters, qualifying candidates for local office, and polling and reporting election results. The Franklin County Civil Service Board was created under the County Sheriff's Civil Service Law, Tenn. Code Ann. §§ 8-8-401, *et seq.* Under that statute, the civil service board is made up of three members selected by the county commission. Tenn. Code Ann. § 8-8-404. Members of the civil service board may not hold any elected or appointed office within the county. Tenn. Code Ann. § 8-8-406. Board members receive a salary to be determined by the county commission. Tenn. Code Ann. § 8-8-407.

It is not clear whether membership on the county election commission is an "elected or appointed office within the county" within the meaning of Tenn. Code Ann. § 8-8-406. This Office has concluded that membership in a county election commission is a state office for some purposes. Op. Tenn. Atty. Gen. 79-72 (February 20, 1979). But a county election commission is extensively involved in every part of the election process within the county. This Office has noted that Tenn. Code Ann. § 8-8-406, when read literally, seems to include any office — city, county, or state — within the county limits. Op. Tenn. Atty. Gen. U94-95 (July 8, 1994). Further, the county commission is generally required to fund the operations of the election commission, except for expenses related to certain city, state, and federal elections. Tenn. Code Ann. § 2-12-109. When the General Assembly amended the county election commission statutes in 1986, it expressly provided that county election commissions were subject to county purchasing and budgetary laws, and also stated that "[n]othing in this act shall be construed as conferring upon any county election

commission . . . status as a state employee.” 1986 Tenn. Pub. Acts Ch. 930, Section 5 (now codified at Tenn. Code Ann. § 2-12-210). For all these reasons, a court could well conclude that Tenn. Code Ann. § 8-8-406 prohibits a member of the Franklin County Election Commission from serving on the Franklin County Civil Service Board.

In addition, we think Tenn. Code Ann. § 2-1-112(a) also prohibits a member of the Franklin County Election Commission from serving on the Franklin County Civil Service Board. Tenn. Code Ann. § 2-1-112(a) provides:

Neither an elected official nor an employee of a state, county, municipal or federal governmental body or agency or of an elected official may serve as a member of a county election commission or as a member of a county primary board or as an election official. No candidate in an election may act in connection with that election as a member of any board or commission or an election official.

The statute does not define the term “employee.” But we think that members of the Franklin County Civil Service Board are county employees, even if they are not full-time. Under Tenn. Code Ann. § 8-8-407, members of a civil service commission receive a salary to be determined by the county commission. We think this is sufficient to make the members of the civil service commission employees of the county within the meaning of Tenn. Code Ann. § 2-1-112(a), even though they are not full-time. *See* Op. Tenn. Atty. Gen. U93-46 (April 5, 1993)(the City Judge of Cumberland City, who is appointee by the Board of Mayor and Aldermen, is a city employee prohibited from serving as a member of a county election commission under Tenn. Code Ann. § 2-1-112). Under Tenn. Code Ann. § 2-1-112(a), therefore, a member of the Franklin County Election Commission may not serve as a member of the Franklin County Civil Service Board.

---

PAUL G. SUMMERS  
Attorney General and Reporter

---

MICHAEL E. MOORE  
Solicitor General

---

ANN LOUISE VIX  
Senior Counsel

**TCA § 2-1-112. Restrictions on commission or board membership or service as election official.**

(a) (1) Neither an elected official nor an employee of a state, county, municipal or federal governmental body or agency or of an elected official may serve as a member of a county election commission or as a member of a county primary board or as an election official. No candidate in an election may act in connection with that election as a member of any board or commission established under this title or as an election official.

(2) No member of a county election commission who is appointed to the commission after January 1, 2009, shall be the campaign manager or treasurer of any candidate's political campaign in a local, state or federal election during the commissioner's term of office. A violation of this subdivision (a)(2) subjects the member to immediate removal from office by a majority vote of the state election commission. Nothing in this subdivision (a)(2) shall be construed to prohibit a member of the county election commission from providing uncompensated advice on a one-on-one basis to a candidate or party officer, nor shall it prohibit providing a financial contribution to a candidate or party organization.

(b) (1) This section does not disqualify any person who is within its terms solely because the person is a notary public, an employee, faculty member or instructor at an institution of higher education, a school teacher, or a member of a reserve unit of the United States army, air force, marine corps or navy, or a member of the national guard unless the person is a full-time employee or member of such reserve unit or the national guard, or unless the person is on active duty.

(2) This section does not disqualify any employee of a county or city school system who does not work directly under the supervision of an elected official.

(3) This section does not disqualify any person from service as an officer of elections, judge, machine operator, assistant precinct registrar or inspector because the person is a member of a reserve unit of the United States army, air force, marine corps or navy or the national guard except while the person is on active duty.

Acts 1972, ch. 740, 1; 1978, ch. 538, 1; 1979, ch. 304, 1; T.C.A., 2-112; Acts 1981, ch. 106, 1; 1984, ch. 664, 1; 2005, ch. 163, 5; 2008, ch. 1051, 1.

**Amendments.** The 2005 amendment deleted from serving only on election day as an election official at the end of (b)(2).

The 2008 amendment, effective January 1, 2009, added (a)(2).

**Effective Dates.** Acts 2005, ch. 163, 6. July 1, 2005.

Acts 2008, ch. 1051, 3. January 1, 2009.

**Cross-References.** Qualifications of commissioners, 2-12-102.

State election commissioners prohibited from serving as political candidate's campaign manager or treasurer, 2-11-111.

**Attorney General Opinions.** T.C.A. 2-1-112(a) would not prohibit a city or county elected official from serving on the state election commission, OAG 02-117 (10/22/02).

T.C.A. 2-1-112(a) prohibits a candidate for election or reelection to a county or city office or for election to any other state or local office from serving as a member of the state election commission, OAG 02-117 (10/22/02).

A member of the county election commission may not serve as a member of the county civil service board, OAG 02-121 (10/30/02).

A quo warranto action appears to be the proper vehicle for challenging the qualifications of an individual. prohibited from serving by T.C.A. 2-1-112, OAG 05-049 (4/19/05).

In light of T.C.A. 2-1-112, an individual who works for county school board in an administrative, non-teacher capacity may not serve on a county election commission, OAG 05-049 (4/19/05).

Constitutionality of restriction on political activity of election commissioners, OAG 07-023 (3/1/07).

**TCA § 2-5-204. Placing of names on ballots Withdrawal or disqualification of candidate Death of candidate.**

(a) Each qualified candidate's name shall be placed on the ballot as it appears on the candidate's nominating petitions unless the candidate dies before the ballots are printed, or unless the candidate requests in writing that the candidate's name not appear on the ballot and files the request with each of the officers with whom the candidate filed nominating petitions or to whom the candidate's nomination was certified as a political party nominee, or unless the executive committee with which a primary candidate filed the original petition determines that the candidate is not qualified under 2-13-104.

(b) (1) A candidate's request to withdraw shall be filed no later than twelve o'clock (12:00) noon prevailing time on the seventh day after the qualifying deadline for the election. A candidate who qualifies pursuant to 2-5-101(g)(1) or who is nominated pursuant to 2-13-204(c) must file any request to withdraw no later than twelve o'clock (12:00) noon prevailing time on the third day after the qualifying deadline.

(2) An executive committee's determination shall be filed with the chair or administrator of elections of each county election commission on whose ballots the candidate's name would otherwise appear no later than twelve o'clock (12:00) noon prevailing time on the seventh day after the qualifying deadline for the election.

(c) If no less than four (4) members of the county election commission vote in the affirmative that a candidate's name on the ballot would be confusing or misleading, the county election commission may require further identifying information or may omit any confusing or misleading portion of the name. In an election where the candidate's name will appear on the ballot in more than one (1) county, this authority shall rest with the state election commission.

(d) No titles may be printed with the candidate's name.

(e) If a candidate dies within forty (40) days before the election, the decedent's name shall remain on the ballot. If the deceased candidate receives the necessary votes to otherwise be elected, then a vacancy shall exist. The vacancy shall be filled as otherwise provided for by law.

Acts 1972, ch. 740, 1; 1978, ch. 754, 2; T.C.A., 2-509; Acts 1988, ch. 933, 14; 1989, ch. 128, 2; 1999, ch. 6, 3; 1999, ch. 197, 6; 2001, ch. 413, 2.

**Compiler's Notes.** References to the county registrar-at-large and deputy registrar have been changed to administrator of elections and deputy, respectively, pursuant to Acts 1997, ch. 558, 21 and 22.

**Section to Section References.** This section is referred to in 2-5-101.

#### **NOTES TO DECISIONS**

1. Withdrawal of Request.
2. Standing.

##### **1. Withdrawal of Request.**

Candidate who, pursuant to this section, requests that his name not appear on the ballot may not withdraw his request and have his name restored to the ballot. *State ex rel. Ozment v. Rand*, 567 S.W.2d 759, 1978 Tenn. LEXIS 606 (Tenn. 1978).

##### **2. Standing.**

Election commission had standing to seek a declaratory judgment as to the eligibility of individuals who submitted qualifying petitions for re-election because the commission was required to place every qualified candidate on the ballot, and qualification included term limitations. *Jordan v. Knox County*, 213 S.W.3d 751, 2007 Tenn. LEXIS 26 (Tenn. 2007).

##### **Collateral References.**

Validity, construction, and application of state statutory requirements concerning placement of independent candidate for president of the united states on ballot. 33 A.L.R.6th 513.

**Cara Harr**

---

**From:** Bill Townsend [roanetn@gmail.com]  
**Sent:** Monday, May 21, 2012 12:42 PM  
**To:** Tennessee Elections  
**Subject:** Roane County Election Commissioner

Roane County Election Commissioner Jim Ryans is holding a County job on the Roane County Public Utility Board for profit at the same time he is serving as the County Republican Election Commissioner. He is also actively campaigning for Republican Candidates in the County which has raised a lot of suspicion on the fairness of him serving on the County Election Commission. I would appreciate your investigation in this matter and trust if there is anything improper here you will address it accordingly.

Thanks for your time.

Kathy-

I had Kelly in Roane find out -

↳ according to her info the members are paid \$100<sup>00</sup> per meeting which is monthly and they are approved by county executive approved by CLB.

mark says it needs to go to SEC for decision.

5/25/2012

**OFFICE OF THE SENATE MINORITY LEADER**

28<sup>th</sup> SENATORIAL DISTRICT  
SHELBY COUNTY

[sen.jim.kyle@capitol.tn.gov](mailto:sen.jim.kyle@capitol.tn.gov)

May 29, 2012

Secretary of State Tre Hargett  
2<sup>nd</sup> Floor, State Capitol  
Nashville, TN 37243

Dear Secretary Hargett,

Recently, allegations have been made in relation to voting irregularities in Shelby County during the 2010 election cycle. Deliberate alteration of voter records is a serious matter, especially when it occurs on such a large scale. This is not the first such question resulting from 2010 cycle, and due to the alleged extent and gravity of the charges, I am joining alongside my fellow elected officials and concerned citizens to call for a formal investigation by the Secretary of State. I also strongly suggest the inclusion of the State Election Commission, as they are a bipartisan entity, and can ensure a more inclusive process.

In addition to investigations by the state, I hope that you will facilitate any inquiries made by the federal Justice Department. It may behoove you to hold public hearings in Shelby County, in order to receive testimony and assure the public that Tennessee stands against attempts to mar our most important of civic processes.

I have every confidence that you will address this situation promptly and thoroughly, at latest before the August primaries. Having a credible allegation such as this go unanswered besmirches the integrity of the election process in our state's largest county, and we all strive to provide a fair and open election environment. If you would like to speak further about available remedies, please do not hesitate to contact me.

Sincerely,



Jim Kyle

Cc: Mark Goins, Coordinator of Elections  
Tennessee Election Commissioners  
Shelby County Delegation Members

CAPITOL HILL OFFICE:  
309 War Memorial Building, Nashville, TN 37243-0028 (615) 741-4167; FAX (615) 253-0221

DISTRICT OFFICE:  
100 Peabody Place, Suite 1375; Memphis, TN 38103 (901) 324-5231; FAX (901) 312-5667

SENATOR JIM KYLE  
Minority Leader

LAUREN G. AGEE  
Senior Policy Advisor

ROBERT CALLAHAN  
Research Analyst

MARSHA MILAN  
Administrative Assistant

**U.S. SENATE  
CANDIDATE FOR CONGRESS  
JAMES TEA-PARTY HIGDON,  
522 Mountain Perkins Lane  
Jacksboro, Tennessee 37757  
Phone (423) 871-0278  
Nball0792@hotmail.com**

June 18, 2012

STATE ELECTION COMMISSION  
312 Rosa L. Parks Avenue, 9<sup>th</sup> Floor  
Nashville, Tennessee 37243-305

Reference: Candidate Nominating Petition: April 5, 2012 Deadline  
Letter dated May 15, 2012 relating to name change.  
Letter dated May 18, 2012 relating to name change.

Dear Commission:

You state, the nickname TEA-PARTY is confusing; without giving any evidence of confusion. Under *Miranda v. Arizona* you are required to provide reasonable facts that a crime has been committed.

I stated under sworn oath that in my nominating petition (TCA 2-5-102) that TEA-PARTY was a nickname along with 67 other signers. We all have committed perjury by your standards (TCA 2-19-109).

You must have jurisdiction (subject matter jurisdiction) to alter a nominating petition.

1. TCA 2-5-102(b)(3) Nominating petitions may not be altered.
2. TCA 2-5-101 Time for filing--- Required signatures. (b)(3) A persons regular signature shall be accepted just as the person's legal signature would be accepted. For example, for the purposes of this subsection (b), "Joe Public" shall be accepted just as "Joseph Q. Public" would be accepted.
3. TCA 2-5-105 Certification of political party nominees.
4. TCA 2-16-101 Vacancies – standard requirements.
5. TCA 2-13-201 Conditions for name being shown on ballot. Tea Party is not a statewide political party or a recognized minor party in the State of Tennessee.
6. TCA 2-5-103 Candidates for statewide elections (b). The chair of the state election commission shall, no later than twelve (12:00) noon prevailing time on the first Thursday after the deadlines set in TCA 2-5-101, (April 5, 2012), certify to the chairs of the county election commissions the names of all candidates who have qualified under this section to have their name on the ballots for general or primary elections.

TCA 2-5-204 Chapter 5 Ballots and Supplies Part 2. There is standards and guide lines for every part of the elections process, guide lines for: independent candidates, political candidates, time limits for primary and general elections, withdrawal process, filing deadlines, signature requirements. TCA provides a procedure for every process of an election. Chapter 5 Ballots and Supplies is not providing guide lines or standard requirements. It is stating when printing ballots and supplies, if in the printing of

the ballots and supplies there might be confusion then the State may have authority to omit the misleading portion of the name; not the entire middle nickname (only the misleading portion). The confusion is in the printing of the ballot (example, would be the name being too long to comply and fit on the ballot). In this case, the entire name has already been certified for ethical standards and procedures required for certification. Letters were mailed out to this fact.

The State Election Commission has taken oath to affirm and sworn; **TO UPHOLD THE TRUTH AND NOTHING BUT THE TRUTH SO HELP ME GOD**; this does encompass a partial truth a partial truth being a lie. An intentional lie is perjury; perjury by an appointed official is a criminal offense, a felon. A felon if convicted is committable to serve time in confinement and cost. TCA 2-19-105 False swearing or affirming. TCA 2-19-202 Interference with election or nomination.

"This is expanding the scope of the definition of campaign contribution," said Ron Wright, a law professor at Wake Forest University who is not involved in the case. "It is an unprecedented definition."

"To my mind — and to borrow a concept from labor and employment law — Edwards' interest in hiding his affair is a classic case of "mixed motive": He was trying to preserve the viability of both his marriage and his campaign. At the cost of the candidate."

"Any election laws that are vague, and confusing, are not enforceable." U.S. v. John Edwards

Mixed motive in this case is the State Election Commission trying to enhance their candidate's position; — being an affiliated certified party verses a non affiliated certified party; Republican party four (4) Democrats party three (3) verses independence none (0). Confusing name authority of the county's verses the States authority of confusing names; with no reasonable facts, no provision or guide lines to enforce authority, no reasonable motive or authority; but to, enhance their candidates position on the ballot.

You need to reinstate the candidates petition as original presented due to time lapse, mixed motives, letter of approval (perjury), violation of vague State/Federal election laws; U.S. v. John Edwards, and there being no subject matter jurisdiction to remove the name TEA PARTY.

Respectfully submitted on June 18, 2012.

Sincerely,

James T. Higdon  
Candidate for Congress  
State of Tennessee

Enclosure: Letter to Mark Goins May 18, 2012

**U.S. SENATE  
CANDIDATE FOR CONGRESS  
JAMES TEA-PARTY HIGDON,  
522 Mountain Perkins Lane  
Jacksboro, Tennessee 37757  
Phone (423) 871-0278  
Nball0792@hotmail.com**

May 18, 2012

Mr. Mark K. Goins,  
State Coordinator of Elections  
312 Rosa L. Parks Avenue, 9<sup>th</sup> Floor  
Nashville, Tennessee 37243-305

Reference: Letter dated May 15, 2012 relating to name change.

Dear Mr. Goins,

Hope you are having a nice day. I enjoyed our brief conversation over the phone yesterday; and hoping this letter will clarify our position.

Your letter was sent on behalf of the State Election Commission; made up of approximate seven (7) people, being affiliated and appointed as being, four (4) Republicans and three (3) Democrats, there being non-represented Independent candidates; showing prejudice of Independent candidates by the make-up of the State Election Commission.

At their meeting on May 14, 2012, they discussed the way my name had been approved (by letter of March 26, 2012) to appear on the State ballot by the County Election Commission, executive committee's determination, 25 required registered voters, Mark K. Goins, Coordinator of Elections, and by themselves (State Election Commission) on April 9, 2012 monthly meeting.

The Letter: March 26, 2012, "Dear Mr. Higdon: This is to inform you that your petition was verified to have been signed by at least 25 registered voters. You have filed the necessary documents with this office to have your name placed on the November 6, 2012, ballot as an independent candidate for the office of U.S. Senate. Absent any challenge to your qualifications to seek this office, your name will appear on the ballot. Sincerely, Mark K. Goins Coordinator of Elections." To my knowledge, there has been no challenge to my qualifications.

You quote TCA 2-5-204(c) as to the authority. The authority rest only if no less than four (4) members of any county election commission vote in the affirmative that a candidate's name on the ballot would be confusing or misleading; this has not happened. The authority for the State rest in how the name change will be presented; not whether the name is confusing or misleading, and to require further identifying information. This should be done before approval letters went out. To change my name on my petition would perjure my application to be on the November 6, ballot; and would perjure everything I have told my constitutes. It would also perjure the Election Commission by sending out false statements.

Absentee ballots have a place chiefly for Nicknames.

Mr. Goins compared a changed birth name "NONE OF THE ABOVE" with a nick name of "TEA-PARTY;" this would be impractical to compare such. My birth name was listed on my petition as James T. Higdon with a middle nickname of Tea Party for conservative (Favoring traditional views and values; tending to oppose change). There being no difference than Robert Phillips Corker, Jr. using "BOB" Corker. Bob standing for "good ole boy" nickname. In reference, I used my birth name plus nickname; The State is allowing Bob Corker to use his nickname. I am positive there being more than one Bob Corker; where there is only one "James Tea-Party Higdon."

The State Election Commission may be held liable for civil and criminal violations of State Elections Laws (Tennessee Code Annotated) and TCA/USC perjury by providing false statements to a candidate for him to act.

TCA 2-5-204(a) "Each qualified candidate's name shall be placed on the ballot as it appears on the candidate's nominating petitions . . ."

TCA 2-5-204(b)(1) Withdrawal date is seven (7) days after qualifying deadline. It being too late to withdraw; candidate is now liable to his constitutes.

TCA 2-5-204(b)(2) "An executive committee's determination shall be filed with the chair or administer of elections of each county election commission on whose ballots the candidate's name would otherwise appear no later than twelve o'clock (12:00) noon prevailing time on the seventh day after the qualifying deadline. . ." Time has expired for the State Election Commission to make changes in a candidate's petition.

What reasonable facts were presented for the decision to omit "Tea-Party?"

Candidate will pray for relief, and that the State Election Commission will reinstate the name as presented on petition.

Sincerely,

James TEA-PARTY Higdon

Cc: Mr. Brian Teepe, Chairperson, MidSouth Tea Party Federal Committee; A. Mike Hammer, Adjutant, The TN American Legion; Newton P. Allen, MD, Chairman, Tennessee Medical Association; Governor, Bill Haslam; Robert E. Cooper, Jr., Attorney General; CNN; Bill O'Reilly, Fox News; Jim Balloch, Knoxville New Sentinel; Suzanne Aviles, West Tennessee Catholic. Memphis, TN Memphis Commercial Appeal; Nashville Tennessean

Enclosures: Letter from Mark K. Goins, Coordinator of Elections, March 26, 2012; Candidate nominating petition; Letter from Mark K. Goins, Coordinator of Elections, May 15, 2012; T.C.A. 2-5-204; Absentee ballot.