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# Elections

The Alabama primary election was June 3, 2008, with a run-off election scheduled for July 15, 2008. The party nominees then will face off in the general election on November 4, 2008.

In addition to the election of the President of the United States, all members of Congress must be elected and one of Alabama's senators (Senator Jeff Sessions) is running as well.

The following statewide offices are on the ballots: president of the Public Service Commission; one seat on the Alabama Supreme Court being vacated by Justice Harold See; and members of the Court of Criminal Appeals and Court of Civil Appeals.

Also, members of the State Board of Education are running for office (they run in geographical districts).

In the courthouse, the following elected offices are on the ballot: county commissioners, revenue commissioners, tax collectors, tax assessors, county treasurers, county constables, county school boards, and county school superintendents.

In addition to state and county elections, there will also be many municipal elections.

The last day to qualify to run for municipal office is July 15, 2008. August 26, 2008 is the regular municipal election day, with October 7, 2008 as the run-off election day for municipal elections. Approximately a dozen of the larger cities hold elections in other years but the vast majority of municipal elections will be held this year.

## Election Law Changes

As a result of work done by an Institute committee chaired by former legislator and Speaker Pro Tem Jim Campbell and 24 other members who were legislators, lawyers, judges, sheriffs, clerks, and the Secretary of State, the entire Election Code-Title 17 was reviewed. The committee cleared up inconsistencies,

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duplications and obsolete laws. The election laws then were reorganized to make them more accessible and usable without making substantive changes to the current practice.

Alabama's election law evolved from paper ballots, to machine voting, to electronic voting. All three processes had separate voting procedures that remained in the law, thereby making a cumbersome and outdated law which was made more complicated by the passage of the federal "Help America Vote Act," the Secretary of State's Administrative Rules and voting officials obtaining Attorney General's Opinions to interpret the various statutes.

The new revision of the law simplified the existing law by conforming all the laws, rules and opinions to electronic voting machines to make sure the statutory law coincides with the voting procedure practice.

The legislature passed the new revision, and it was signed into law by the governor on April 25, 2006 with an effective date of January 1, 2007. Before the law could be effective, it had to be pre-cleared by the Justice Department. It wasn't until over a year later, in July 2007, that the Attorney General of Alabama submitted the act to the Justice Department which approved the revision in November 2007.

The 2008 election is the first opportunity for the new election code to be in effect. It did make certain changes in duties and responsibilities of elected officials. For clarification of these changes one may wish to consult Title 17 or the *Alabama Election Handbook, 13<sup>th</sup> Edition*.

Some of the more meaningful changes were the realignment of certain responsibilities of the probate judge as chief election official of the county and the sheriff.

Further, the appointing of election officials by the appointing board (probate judge, sheriff and circuit clerk) has been clarified. The revision delineates the responsibilities of the canvassing board to receive the ballots. For general elections, the canvassing board is the probate judge, sheriff and circuit clerk, while in primary elections, the canvassing board is the party election officials.

Some of the most confusing areas in the law were purging the voter list, identifying the responsibilities of poll workers and the voter identification law as it is applied to absentee ballots and provisional ballots. Again, these were clarified and made more understandable.

When the Help America Vote Act provided for "provisional ballots," the election code had to be revised to replace our existing challenged ballots.

Municipal law changes were also made to coincide with the most recent changes in the general law. These changes can be found in the Elections chapter of the Municipal Code, which is Chapter 46 of Title 11. Also available is a *Municipal Election Code Handbook* that can be obtained from the League of Municipalities' Web site at [www.alalm.org](http://www.alalm.org).

## Voting Rights Act

Because Alabama falls within Section 5 of the Voting Rights Act of 1965, 79STAT.439, 42USC§1973(C), any changes or qualifications in voting with respect to voting procedures different from those in effect November 1, 1964 must be submitted to the United States District Court or District of Columbia or a declaratory judgment must be obtained as to the validity of the change or the change submitted to the U.S. Attorney for approval. John Tanner, formerly chief of the Voting Rights Section, Civil Rights Division, U.S. Justice Department, Washington, D.C., is currently serving a sabbatical with the Alabama Law Institute as a visiting Fellow. His article in this *Alabama Lawyer*, entitled "Emergency Voting Changes," is a reference to the pre-clearance procedure for lawyers to follow in the event of changes that occur close to election day.

The next *Alabama Lawyer* will review all of the legislation passed by the 2008 Regular Session of the legislature. At the time this article went to press, the legislature was continuing to filibuster and no meaningful statewide legislation had been able to pass.

## Annual Meeting

The Institute's Annual Meeting will be held during the annual meeting of the Alabama State Bar. This year's meeting, in Sandestin, will be Friday, July 11, 2008 at 10:15 a.m.

Institute President Demetrius Newton will preside over a program that will include:

2008 Legislation of Interest to Lawyers Panel:

Senator Roger Bedford

Senator Zeb Little

Representative Marcel Black

Representative Cam Ward

Business & Non-Profit Entities Code

Professor Howard Walthall

Pre-clearance Election Issues under The Voting Rights Act

John Tanner, Institute Fellow (see above) ▲▼▲