

**RULES
OF
DEPARTMENT OF STATE - 1360
DIVISION OF ELECTIONS**

**CHAPTER 1360-2-15
PROCEDURES FOR EARLY VOTING ON MECHANICAL
LEVER MACHINES**

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1360-2-15-.01 ADOPTION AND PROMULGATION. The following rules and regulations for early voting on mechanical lever voting machines in the State of Tennessee are adopted and promulgated by the Coordinator of Elections of the State of Tennessee and approved by the Tennessee Secretary of State under the authority of *T.C.A. §§2-11-201(c) and 2-6-104(d)*, as amended by 1994 Tenn. Pub. Acts, ch. 859, §2.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c).* **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.02 INTENT OF REGULATIONS. It is the intent of these regulations to provide uniform procedures for the use of mechanical lever voting machines for early voting in the State of Tennessee so that:

1. (a) The freedom and purity of the ballot is safeguarded.
- (b) The county election commissions in this state shall have the option, with the approval of the State Coordinator of Elections and the State Election Commission, to use alternate electoral devices, the regulations of which are not presently provided in the Election Code of the State of Tennessee as embodied in Chapter 740, Public Acts of the General Assembly of Tennessee, 1972, (*Title 2, Tennessee Code Annotated*), as amended.
- (c) Each voter's vote will be accurately and honestly counted.
- (d) A uniform procedure for the use of mechanical lever voting machines for early voting will be in use throughout the State of Tennessee.
- (e) Maximum participation by all citizens in the electoral process will be encouraged; and
- (f) The total of votes cast will accurately reflect the will of the majority of voters voting in any given election.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c).* **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.03 VOTER APPLICATION. A voter desiring to vote early by personal appearance shall go to the county election office within the posted hours no more than 20 days nor less than 5 days before the day of the election and sign an application to vote early. Additionally, counties may use their mechanical lever machines during the emergency absentee voting period as specified in *T.C.A. §2-6-401*. Applications for ballots shall be on

(Rule 1360-2-15-.03, continued)

forms supplied to the county election commission by the State Coordinator of Elections or on forms approved by the Coordinator.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c).* **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.04 OPTIONS AVAILABLE TO COUNTY ELECTION COMMISSIONS USING MECHANICAL LEVER MACHINES.

- (1) County election commissions may use mechanical lever machines for early voting. In determining the procedures of early voting for a county, the county election commission is granted the following options:
 - (a) Placing all the races on the machine ballot; or
 - (b) Placing part of the races on machine ballot and part of the races on paper ballot (e.g. District Races); or
 - (c) Placing all the races on paper ballot.

Regardless of which option is chosen, no machine shall have more than 999 voters using the machine during the specified time frame for early voting.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c).* **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.05 PROCEDURES WHEN ALL THE RACES ARE ON MACHINE BALLOT.

- (1) When the voter completes his or her early voting application, the registrar shall compare the signature of the voter with the signature on the voter's permanent registration record or other evidence of identification if computerized duplicate registration records are used, and shall endorse on the application that the two signatures are, or are not, the same.
- (2) Any voter desiring to cast a write-in vote may request a paper ballot in order to write-in the name. This request must be made before operating a voting machine, and a voter after receiving a paper ballot may not enter a voting machine. For voters desiring to cast a write-in ballot, the procedures outlined in *T.C.A. §§2-7-114 and 2-7-117* shall apply.
- (3) If no write-in ballot is requested, the election official will complete and tear off the machine application on the bottom of the early voting application and hand it to the voter. The back of the voter's permanent registration record or the computer signature list will be marked recording his or her vote. The registrar shall write the name of the voter on the poll list. The voter shall give the machine application to the election official in charge of the voting machine. The election official shall initial the machine application and place it on the top of the application binder for that machine, set the machine for the correct elections, and set the officer's control. The voter shall vote in secret unless he or she needs assistance. Should the voter require assistance due to a physical disability or illiteracy, the procedures in *T.C.A. §2-7-116* shall govern the rendering of that assistance.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c).* **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.06 PROCEDURES WHEN PART OF THE RACES ARE ON MACHINE BALLOT AND PART ON PAPER BALLOT.

- (1) When the voter completes his or her early voting application, the registrar shall compare the signature of the voter with the signature on the voter's permanent registration record or other evidence of identification if computerized duplicate registration records are used, and shall endorse on the application that the two signatures are, or are not, the same.
- (2) Any voter desiring to cast a write-in vote in any race included on the machine ballot, may request a paper ballot in order to write-in the name. This request must be made before operating a voting machine, and a voter after receiving a paper ballot may not enter a voting machine. For voters desiring to cast a write-in ballot, the procedures outlined in *T.C.A. §§2-7-114 and 2-7-117* shall apply.
- (3) If the voter does not wish to cast a write-in ballot, the voter shall be required to mark his or her paper ballot before entering the voting machine. This shall be strictly adhered to in order to prevent concerns about the conduct of the election and its fairness to all candidates on the ballot. The registrar shall hand the voter the following:
 - (a) Instructions.
 - (b) One paper ballot for each election in which the voter is eligible to vote.
 - (c) One security envelope for each paper ballots.
- (4) The voter shall be shown that the ballot is unmarked. The voter shall mark his or her ballot in secret at the designated place in the office. After the voter marks his or her ballot, the voter shall fold the ballot, place it in the security envelope, and seal the envelope. In the presence of the election official, the voter shall sign the sworn statement on the security envelope and give the security envelope to the election official.
- (5) The election official shall immediately sign the security envelope and deposit the envelope in the correct ballot box in the presence of the voter. Additionally, if assistance is required, it shall be rendered according to *T.C.A. §2-7-116* and the person assisting shall sign the envelope as well in the appropriate blank. The election official shall then complete the machine application and have the voter sign the application. After, and only after, the paper ballot is turned in, the election official shall tear the machine application off the bottom of the early voting application and hand it to the voter. The voter's permanent registration record or the computer signature list shall be marked recording that he or she voted in the election. The registrar shall write the name of the voter on the poll list.
- (6) The voter shall give the machine application to the election official in charge of the voting machine. The election official shall initial the machine application and place it on the top of the application binder for that machine. The election official shall set the machine for the correct elections and then set the officer's control. The voter shall vote in secret unless he or she needs assistance. Should the voter require assistance, the procedures outlined in *T.C.A. §2-7-116* shall govern the rendering of that assistance.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c).* **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.07 ELECTION COMMISSION PRE-INSPECTION.

- (1) The county election commission shall be required to pre-inspect every voting machine to be used in early voting prior to the start of early voting. The election commission shall mail notices to the chairpersons of the county executive committees of the parties, independent candidates, and the press stating where and when the machines will be examined as provided in *T.C.A. §2-9-105*. County Election Commissions may delegate this responsibility to pre-inspect to the machine technician. First,

(Rule 1360-2-15-.07, continued)

the protective counter, public counter, machine serial number, back door seal number, and custodian seal (on the inside face of the machine), shall all be recorded on the Early Voting Machine Technician Certification form. This form shall be substantially identical to the Machine Technician Certification form used for certification of voting machines at the polling places. All candidates' names and counters shall be checked to certify that no errors exist and that each candidate's counter starts with zero. The inspectors shall verify that this has been accomplished by written signature on the Early Voting Machine Technician Certification form. The election commissioners shall not set the machine for voting.

- (2) Following the pre-inspection, each machine shall be locked against voting and sealed with two pre-numbered seals. The seal numbers shall be recorded on the Early Voting Technician Certification form after the pre-inspection.

Authority: T.C.A. §§2-6-104(d) and 2-11-201(c). **Administrative History:** Original rule filed October 20, 1995; effective February 28, 1995.

1360-2-15-.08 OPENING INSPECTION.

- (1) At the beginning of each day of early voting, the registrar and at least one early voting election official representing each political party shall verify that the numbers on all seals and the protective counter match those recorded on the machine certification form. If the numbers properly match, then the machine may be opened. If the numbers do not match, a written report shall be made of the numbers, the machine involved, and the names of the individuals present. This report shall be forwarded to the State Coordinator of Elections as well as to the chairman and secretary of the county election commission. This machine shall not be used without authorization from the State Coordinator of Elections.
- (2) If the numbers mentioned in paragraph one (1) properly match, the registrar and election officials shall open the machine. With the front door of the voting machine open, the names and counters shall be inspected to make certain that no errors exist. On the first day of early voting, the registrar and election officials shall certify that all candidates' counters start with zero. The registrar and at least one election official representing each political party shall then certify that pre-inspection has been completed on day one of the early voting period. This certification is made on the Daily Machine Certification form for that individual machine (See "Sample A"). Only after this signed certification is completed may the machine be set for early voting. Each machine shall have a binder tablet with the machine's serial number on it in which to place the machine applications in the order that they are received.
- (3) At the beginning of the next day of early voting, and each subsequent day of early voting through the 5th day before the election, a daily opening inspection shall again be conducted prior to the machine being placed in use for that day's early voting. The registrar and election officials shall follow the procedures detailed above and verify that the counter and seal numbers match those recorded during the preceding day's closing inspection, detailed below in rule 1360-2-15-.09. If the numbers do not match, a written report shall be made of the numbers, the machine involved, and the names of the individuals present. This report shall be forwarded to the State Coordinator of Elections as well as to the chairman and secretary of the county election commission. This machine shall not be used further without authorization from the State Coordinator of Elections.

Authority: T.C.A. §§2-6-104(d) and 2-11-201(c). **Administrative History:** Original rule filed October 20, 1995; effective February 28, 1995.

1360-2-15-.09 DAILY CLOSING; INSPECTION.

- (1) At the close of business for each early voting day, the registrar and at least one early voting official representing each political party shall perform the following inspections:

(Rule 1360-2-15-.09, continued)

- (a) For each machine, the number on the public counter and protective counter as well as the seal numbers on the back door and the custodian's seal on the inside face of the machine shall be recorded on the daily inspection sheet.
 - (b) The number of machine applications for that day for each machine shall be counted and recorded on the daily inspection sheet. The numbers shall be audited for accuracy.
 - (c) Upon determining that the numbers all agree, the machine shall be locked and sealed. The seal numbers shall be recorded on the Daily Machine Certification. The machine shall not be set in the "polls closed" position. The registrar and at least one election official representing each political party shall sign the closing inspection certifying that this was accomplished. If the numbers do not agree, a report shall be completed detailing the variations and the machine technician shall inspect the machine prior to any additional use in order to make sure it is in proper working order.
- (2) Daily opening inspections and daily closing inspections shall be completed throughout the entire early voting period through the 5th day prior to the election.
 - (3) Notwithstanding the above provisions, between the close of early voting and election day, county election commissions have the discretion to continue to use voting machines to accommodate those individuals who need to vote absentee because of one of the emergency circumstances listed under *T.C.A. §2-6-401*. If the commission chooses to do so, all the procedures for daily opening and closing inspections and safeguarding the machines shall be followed on those days as well.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c)*. **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.10 CERTIFICATION OF VOTE TOTALS ON ELECTION NIGHT.

- (1) After the close of the polls on election day, the registrar and the early voting counting board in the presence of the available members of the county election commission, shall conduct an opening inspection on the Daily Machine Certification for each machine. The public counter and protective counter shall be recorded along with the back door seal and the custodian seal on the front face of the machine. After this is recorded and signed by individuals representing each political party, then the counter compartments shall be opened.
- (2) A Certificate of Results shall be completed for all races and machines. This shall be completed according to the same procedures detailed in *T.C.A. §2-7-130* for all precincts across the state. After the procedures have been completed and the machine locked against voting, numbered seals shall be attached with the numbers recorded on the Certificate of Results. Early voting machines shall be subject to the provisions in *T.C.A. §§2-8-104 and 2-9-108*.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c)*. **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.11 SAFEGUARDS AND SECURITY OF EARLY VOTING MACHINES.

- (1) The original Daily Machine Certification form shall be kept in a secure, locked location inside the election office. Copies may be mailed, subject to the discretion of the local election commission, to the chairman and the secretary of the county election commission at the close of business each day the machines are used.

(Rule 1360-2-15-.11, continued)

- (2) After the election has been certified, the original Daily Machine Certification form shall be filed with the election supplies. A certified copy of all Daily Machine Certification forms shall be provided to the State Coordinator of Elections with the Certification of Early Voting Balloting as authorized in *T.C.A. §2-6-304*.
- (3) At the end of each day, the applications for each machine shall be: counted, bound, dated, labeled by machine serial number, and stored in a locked, secure place until the certification of absentee voting.
- (4) The keys for each machine shall be kept by the registrar in a secure place located inside the election commission office or at the satellite commission office if the county election commission has chosen to use such. This is necessary to lock and unlock machines daily for early voting.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c)*. *Administrative History:* *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.12 NOTICE OF PENALTY. Each early voting machine shall have the following language labeled on a front door and on a back door:

“It is a class E Felony to deface, mutilate, and/or tamper with a voting machine used by this county (T.C.A. 2-19-118).”

The letters for the label shall be a minimum of 3/4 inches tall.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c)*. *Administrative History:* *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.13 PROCEDURE FOR MACHINES WITH 999 VOTERS. No machine shall have more than 999 voters using it during the early voting period. If the public counter on a machine reaches 999, that machine shall be locked against any further voting. *T.C.A. §2-7-130* describes the procedure used at the polling place on election day. For early voting, the registrar, in the presence of at least one early voting official representing each political party, shall use the Officer #1 key to lock the machine against voting. The candidates’ counters shall not be exposed. The “polls open” switch shall not be moved in order to prevent revealing the machine’s vote totals for each candidate. The machine shall be locked and sealed. The machine shall be stored inside the election commission office or in a secure location to be determined by a majority of the members of the county election commission. A copy of the closing inspection for a machine with 999 votes may be mailed to the chairman and secretary of the county election commission, subject to the discretion of the local election commission.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c)*. *Administrative History:* *Original rule filed October 20, 1995; effective February 28, 1995.*

1360-2-15-.14 EARLY VOTING OFFICIALS.

- (1) In any election in which voting machines are utilized, the county election commissions shall appoint a sufficient number of early voting officials to insure the integrity of the ballot and smooth operation of the election. Special attention shall be given to ensure that the voting machines are secured at all times to ensure against unauthorized use. The commission shall appoint two early voting officials. Members of the election commission representing the majority party shall appoint one official, and members representing the minority party shall appoint one official. In appointing additional early voting officials as need requires, the members of the commission of the majority and minority parties should continue to alternate in appointing officials.
- (2) Duties of the early voting officials shall be to assist the voter in casting his or her vote as allowed by law, including, but not limited to, the following: operating voting machines, attesting ballots, verifying signatures, completing applications, issuing ballots, assisting disabled voters, and conducting machine

(Rule 1360-2-15-.14, continued)

inspections. The registrar shall direct the early voting officials according to the election code in carrying out their duties. Early voting officials shall be given an oath as detailed in *T.C.A. §2-1-111*.

Authority: *T.C.A. §§2-6-104(d) and 2-11-201(c)*. **Administrative History:** *Original rule filed October 20, 1995; effective February 28, 1995.*

Sample A
EARLY VOTING
DAILY MACHINE CERTIFICATION
FOR 3.2 SHOP LEVER MACHINES
_____ COUNTY

TECHNICIAN'S CERTIFICATION

MACHINE SERIAL # _____ SECURITY BAR # _____ # _____
 PROTECTIVE COUNTER # _____ BACK DOOR SEAL # _____
 PUBLIC COUNTER # _____ CUSTODIAN SEAL # _____

ELECTIONS HELD _____ DATE OF ELECTION _____

	OPENING INSPECTION	CLOSING INSPECTION	AUDIT #	OPENING SIGNATURES
PROTECTIVE COUNTER #	_____	_____	_____	1. _____
PUBLIC COUNTER #	_____	_____	_____	2. _____
BACK DOOR SEAL #	_____	_____	_____	3. _____
CUSTODIAN'S (INSIDE FACE) SEAL #	_____	_____	_____	CLOSING SIGNATURES
SECURITY BAR SEALS	# _____ # _____ START	# _____ # _____ STOP	_____	1. _____
# OF MACHINE APPLICATIONS THIS DAY		_____	_____	2. _____
		_____	_____	3. _____

DATE: _____

	OPENING INSPECTION	CLOSING INSPECTION	AUDIT #	OPENING SIGNATURES
PROTECTIVE COUNTER #	_____	_____	_____	1. _____
PUBLIC COUNTER #	_____	_____	_____	2. _____
BACK DOOR SEAL #	_____	_____	_____	3. _____
CUSTODIAN'S (INSIDE FACE) SEAL #	_____	_____	_____	CLOSING SIGNATURES
SECURITY BAR SEALS	# _____ # _____ START	# _____ # _____ STOP	_____	1. _____
# OF MACHINE APPLICATIONS THIS DAY		_____	_____	2. _____
		_____	_____	3. _____