

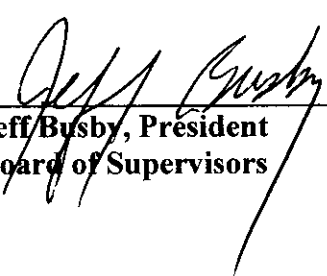
**ORDER: APPROVE ELECTION COMMISSIONERS TO BE COMPENSATED FOR  
TIME WORKED WITHOUT A COMMISSION QUORUM, WHEN NECESSARY, PER  
MS CODE SECTION 23-15-153**

Motion was made by Kevin Frye, duly seconded by Chad McLarty, to approve Election Commissioners to be compensated for time worked without a Commission Quorum, when necessary, per MS Code Section 23-15-153.

The vote on the motion was as follows:

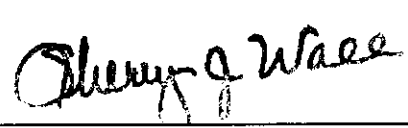
Supervisor Kevin Frye, voted yes  
Supervisor Jeff Busby, voted yes  
Supervisor David Rikard, voted yes  
Supervisor Chad McLarty, voted yes  
Supervisor Mike Roberts, voted yes

After the vote, President Busby, declared the motion carried, this the 15<sup>th</sup> day of April, 2019.



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Jeff Busby, President  
Board of Supervisors



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Sherry Wall, Chancery Clerk



**ELECTION COMMISSIONERS**  
**LAFAYETTE COUNTY, MISSISSIPPI**

April 8, 2019

Mr. Jeff Busby, President  
and The Lafayette County Board of Supervisors  
P. O. Box 1240  
Oxford, MS. 38655

Dear Board of Supervisors:

Subject: Compensation for election commissioners when working without a quorum.  
Miss Code. Ann Section 23-15-153

It has come to the attention of the Lafayette County Election Commission (The commission) that a recent Mississippi Attorney General's Opinion has determined that individual election commissioners may work alone in the absence of a quorum if The Commission as a whole determines it is necessary and if the Board of Supervisors grant an order authorizing same.

The Lafayette County Election Commission (The Commission) requests that the Lafayette County Board of Supervisors Grant an order which authorizes members of The Commission to conduct official business without a Commission quorum when necessary and be compensated for that time in accordance with the above Miss Code. Ann. Section 23-15-153.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Debra Black", is written over a large, loopy circular flourish.

Debra Black  
Chair  
The Lafayette County Election Commission

Attachments: 1. MS. Atty Gen. opinion No. 2019-00025, dtd. Feb. 1, 2019  
2. MS. Attn Gen. Opinion No. 2015-00404, dtd. Nov. 13, 2015  
3. Lafayette Co. Election Commission minutes: June 25, 2018

1 County Courthouse Square, Ste. 317, Oxford, MS 38655

Phone: (662)232-2887 - Email: [elections@lafayettecoms.com](mailto:elections@lafayettecoms.com)

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**WESTLAW Mississippi Attorney General Opinions***The Honorable Jan A. Pearson*Office of the Attorney General  
February 1, 2019

2019 WL 1142883 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

\*1

Opinion No. 2019-00025

\*1 February 1, 2019

**Re: Election Commissioner Working Without a Quorum of the Commission Present**

\*1 The Honorable Jan A. Pearson

\*1 Sharkey County Election Commissioner

\*1 Post Office Box 63

\*1 Anguilla, Mississippi 38721

Dear Ms. Pearson:

\*1 Attorney General Jim Hood received your letter of request and assigned it to me for research and reply.

**Issue Presented**

\*1 We understand the issue to be whether an individual county election commissioner is entitled to receive compensation for work performed in the revision of the registration and pollbooks when a quorum of the commission is not present.

**Response**

\*1 It has been our consistent position that individual commissioners who perform work when a quorum is not present may be paid for such work only upon the occurrence of two separate and distinct actions. First, the county election commission must make the determination, consistent with the facts, that, in order to fulfill its statutory responsibilities, it is necessary for individual commissioners to work when a quorum is not present; and second, the county board of supervisors, by lawful order, authorizes compensation for such work not to exceed the total number of days allowed by statute for revising the registration books and pollbooks. *MS AG Op., Mitchell* (February 13, 1990); *MS AG Op., Wilemon* (May 26, 2006); *MS AG Op., Robinson* (March 14, 2008); *MS AG Op., Snowden* (November 13, 2015).

\*1 The decision to issue a lawful order authorizing compensation for such work is not mandatory but is strictly at the discretion of the board of supervisors.

**Applicable Law and Discussion**

\*1 Mississippi Code Annotated Section 23-15-153 requires the election commissioners to meet at the office of the registrar or the office of the election commissioners to take appropriate official action to revise the voter rolls. Obviously, official acts of an election commission can only be made when a quorum is present. If the commission as a whole determines, consistent with the facts, that in order for it to perform its official duties it is necessary for individual election commissioners to work without a quorum, the commission may seek an order from the board of supervisors authorizing same. The board of supervisors may, in its discretion, issue the requested order.

Sincerely,

\*1 Jim Hood

\*1 Attorney General

\*1 By: Phil Carter

\*1 Special Assistant Attorney General

2019 WL 1142883 (Miss.A.G.)

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ATTACHMENT 1

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**WESTLAW Mississippi Attorney General Opinions**

Greg Snowden

Office of the Attorney General

November 13, 2015

2015 WL 9264841 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

\*1

Opinion No. 2015-00404

\*1 November 13, 2015

**Re: Compensation of Election Commissioners**

\*1 Greg Snowden

\*1 Representative

\*1 P.O. Box 3807

\*1 Meridian, MS 39303-3807

Dear Representative Snowden:

\*1 Attorney General Hood is in receipt of your request for an official opinion and it has been assigned to me for research and reply.

**Background and Questions Presented**

\*1 On behalf of the Clarke County Board of Supervisors your letter states, in part:

\*1 Miss. Code Ann. Section 23-15-153 sets forth the duties of county election commissioners and provides for compensation payable to the commissioners for the performance of those duties. The Clarke County Election Commission ("the Commission") is mindful that in order to conduct official business, a quorum of the members must be present. At times in the past, however, individual commissioners have performed ministerial tasks without a quorum being present, and have claimed and been paid compensation therefor. Their understanding heretofore has been that performing ministerial tasks in the absence of a quorum is permissible so long as no official business is being conducted.

\*1 Recently it has come to light that one of the election commissioners has claimed and been paid for considerably more days of work than the remaining commissioners. There is no allegation that the work was not actually performed, that it was not ministerial in nature, or that it is in excess of the total number of days allowed by the law. The single issue is that there has been one commissioner who has been putting in more days than her colleagues, for which she has been paid, without the remaining commissioners having knowledge of her additional work.

\*1 When the situation was brought to the attention of the full Commission membership, a majority of the commissioners refused to consent or ratify the additional work of the single commissioner. The Board of Supervisors is now uncertain of how to proceed, given the division of opinion among the election commissioners, and desires the guidance of your office.

\*1 The following questions are presented:

\*1 1. Is the consent and approval of the Election Commission and/or of the Board of Supervisors required in order for one or more commissioners to be paid for performing non-official, ministerial duties of the office, when no quorum of the Commission is present?

\*1 2. If a commissioner has submitted claims and has already been paid for days on which the commissioner performed non-official, ministerial tasks, may the Election Commission and/or the Board of Supervisors ratify the claims after the fact and, if so, is the affirmation action of both the Commission and the Board required to effect this?

\*1 3. If the answer to question no. 2 is negative, then does the Board of Supervisors have the duty to demand repayment from the election commissioner of the compensation paid when a majority of the Election Commission has refused to consent or ratify the compensation claims of the commissioner in question?

**Applicable Law**

\*2 With regard to election commissioner pay for work performed without a quorum present, this office has stated:

\*2 As to the compensation of individual commissioners working when a quorum is not present, it is our opinion that Section 23-15-153 (2) which provides the per diem for the commissioners contemplates that the commission as a whole be in session. The commission cannot be in session if a quorum is not present. However, we recognize that the nature of the work requires that individual commissioners perform certain tasks preliminary to the action of officially revising the voting records by a quorum of the commission. Therefore, if the commission determines, consistent with the facts, that in order to fulfill its statutory responsibilities it is necessary for individual commissioners to work when a quorum is not present and the county board of supervisors, by lawful order, authorizes compensation for such work not to exceed the total number of days allowed by statute for revising the registration books and pollbooks, individual commissioners would be entitled to compensation for such work as authorized in said order.

ATTACHMENT 2

\*2 MS AG Op., *Mitchell* (February 13, 1990). (Emphasis added).

Conclusion

\*2 In order for individual commissioners to claim pay for performing work when a quorum is not present, the election commission must make a finding that to fulfill its duties, it is necessary for individual commissioners to work when a quorum is not present. Once such a finding has been made by the commission, the board of supervisors may authorize compensation for the work. In response to your first question and assuming that the findings above have been made, we find no requirement that the election commission ratify the work of an individual commissioner in order for the commissioner to receive pay. Our response to the first question renders the second and third questions moot.

\*2 Please let us know if this office can be of further assistance.  
Sincerely,

\*2 Jim Hood  
\*2 Attorney General  
\*2 By: Elizabeth S. Bollen  
\*2 Special Assistant Attorney General

2015 WL 9264841 (Miss.A.G.)

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**Lafayette County Board**  
**of Election Commissioners Minutes**

**June 25th, 2018**

A meeting of the Lafayette County Board of Election Commissioners met on June 25th, 2018, at the Lafayette County Courthouse, third floor. The meeting was called to order by Board Chairperson Debbie Black at 10:15am.

The following Commissioners present were Debbie Black, Faye Phillips, Lola Pearson, Max Hipp and Jim Stephens.

The minutes of the previous meeting were read for any additions or deletions. There being none, along with no discussion, Faye Phillips made a motion to accept the minutes as read. With a second by Lola Pearson, all Commissioners agreed to accept the minutes as read.

After review by each Commissioner, Debbie Black asked that we accept the Time Sheets, Inactive and Purged reports for this time period. Lola Pearson, with a second by Max Hipp, made a motion that we accept the aforementioned items. There being no discussion, motion carried. It was agreed that any Commissioner can work alone, depending on his/her work schedule, to complete the work necessary to keep the voter rolls up to date.