



2009-010

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

October 29, 2008

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Honorable Beth Chapman
Secretary of State
State Capitol - Suite S-105
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Montgomery, Alabama 36130

Provisional Ballots - Holidays -
Elections

Because the seventh day following the election is a holiday, the tasks of the registrars and canvassing board should be performed on the following day and in the same manner as if the duties were being performed on the appropriate day.

Dear Ms. Chapman:

This opinion of the Attorney General is issued in response to your request.

QUESTION

When must the duties of the voter registrars and the canvassing boards be performed in instances where the seventh day after the election is a holiday?

FACTS AND ANALYSIS

In your letter of request, you informed this Office that you had received a number of questions concerning when provisional voter affirmations and inspector challenge statements, with the certified findings of the board of registrars attached, should be delivered to the judge of probate, as well as questions concerning when the canvassing board should

tabulate provisional ballots that have been certified by the board of registrars as cast by registered and qualified voters.

As noted in your opinion request, section 17-10-2(e) and 17-10-2(f) of the Code of Alabama have specific provisions regarding the duties of the registrars and the canvassing boards. Specifically, section 17-10-2(e) states that “[t]he board of registrars shall deliver the provisional voter affirmations and inspector challenge statements, with the certified findings of the board of registrars attached, to the judge of probate . . . ***no later than noon seven days after the election . . .***” ALA. CODE § 17-10-2(e) (2007) (emphasis added). With regard to canvassing boards, section 17-10-2(f) states that “[c]ommencing at noon, Tuesday, ***seven days after the election***, the canvassing board . . . shall tabulate provisional ballots. . . .” ALA. CODE § 17-10-2(f) (2007) (emphasis added). Both provisions require that certain duties be performed by registrars and canvassing boards seven days after the election. This year, the election will be held on Tuesday, November 4, 2008. Seven days from this date is Tuesday, November 11, 2008. November 11th is Veteran’s Day, which is a nationally recognized holiday. ALA. CODE § 1-3-8 (1999).

Section 1-1-4 of the Code of Alabama contemplates the manner in which time should be computed. This section states in instances where the last day an act must be done falls on a holiday, Sunday, or a day in which the office in which the act must be done is closed, the last day is excluded, and the next succeeding working day is counted as the last day. ALA. CODE § 1-1-4 (1999). Accordingly, it is the opinion of this Office that the acts to be performed by registrars and canvassing boards should be conducted on Wednesday, November 12, 2008. *See, generally*, opinion to Honorable Nancy Worley, Secretary of State, dated November 10, 2004, A.G. No. 2005-016.

CONCLUSION

Because the seventh day following the election is a holiday, the tasks of the registrars and canvassing board should be performed on the following day and in the same manner as if the duties were being performed on the appropriate day.

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I hope this opinion answers your question. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:

A handwritten signature in cursive script that reads "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

TK/MMG

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