



2012-037

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

February 15, 2012

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Fred Hamic
Geneva County Probate Judge/
County Chairman
200 North Commerce Street
Post Office Box 430
Geneva, Alabama 36340

Registrars, Board of – County Commissions –
Probate Judges – Voter Registration List –
Municipalities

The county commission, the board of registrars, and the probate judge should work together to determine who is best suited to be responsible for the street files and precinct maintenance for the county and for any municipalities within the county, subject to the oversight and guidance of the Secretary of State as set forth in the Alabama HAVA Project Statewide Security Policy for the Alabama Voter Registration and Election Management System. The county commission must designate these roles in writing.

Dear Judge Hamic:

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

QUESTIONS

(1) Does the Geneva County Commission have the authority to instruct the Geneva County Board of Registrars that it must assist the City of Geneva in updating voter registration files for the municipal election?

(2) Can the probate office and the board of registrars have “joint” jurisdiction over the street-files program?

FACTS AND ANALYSIS

In your request, you state that the City of Geneva has made a “street files” request from the Geneva County Board of Registrars to assist the city in updating voter registration for its municipal election. Your request notes that the Geneva County Board of Registrars currently supplies the city with a list of registered voters and voter addresses, but it does not assign the voter to a specified city voting district. You further explain that the board of registrars is involved in redrawing county districts and does not feel it has the resources to fulfill the city’s request.

Section 11-46-4 of the Code of Alabama authorizes incorporated municipalities to enter into contracts with the counties and boards of registrars to conduct an identification program of voters eligible to vote in municipal elections. This statute also encourages cooperation between the city and the county and boards of registrars in entering in said contracts. This section provides, in pertinent part, as follows:

The county and its board of registrars shall not unreasonably withhold approval of a contract with any municipality for such purposes *nor shall such county or its board unreasonably delay* acceptance of such contract; it being the intention of the Legislature that the said *county and its board shall cooperate fully with the municipalities* which adopt the said appropriate resolution and attempt in good faith to contract with such municipality. . . .

ALA. CODE § 11-46-4 (2008) (emphasis added). Section 11-46-4 further provides that “[i]t is the intention of the Legislature that any such contracts, as herein authorized, be detailed and sufficiently complete so that any elector may look to it for all requirements of the program of identification.” *Id.*

Pursuant to the requirements of the Help America Vote Act (“HAVA”), the State of Alabama created the Alabama Voter Registration and Election Management System (“voter registration system”) as its uniform statewide computerized voter registration database. ALA. CODE §§ 17-2-1 to 17-2-4 (2006). The Secretary of State, as the state’s chief elections official, is charged with the responsibility for the HAVA voter registration system, including providing uniform guidance and adopting rules for the implementation of the system. ALA. CODE § 17-1-3 (2006).

The “street files” mentioned in your request are a feature of the Alabama Voter Registration and Election Management System. Street files assist the

board of registrars in placing a voter in the appropriate voting precinct according to the physical address listed on his or her voter registration form. Although section 11-46-4 of the Code does not address whether the county commission has the authority to instruct the board of registrars regarding this issue, the Alabama HAVA Project Statewide Security Policy (“Security Policy”) for the Alabama Voter Registration and Election Management System provides guidance regarding user access and responsibility of users to the voter registration system.

According to the Security Policy, the security of the voter registration system is subject to the guidance of the Secretary of State. Alabama HAVA Project Statewide Security Policy, at 2 (2008). The Security Policy provides for different types of user groups and limits the access by these different user groups according to the applicable user functions. The county board of registrars is identified as a county user and is responsible for the voter registration activities within the system and only registrars, or those they specifically designate, may edit voter registration data in the system. Alabama HAVA Project Statewide Security Policy, at 3 (2008). The county boards of registrars are also statutorily required to enter voter registration information into the statewide voter registration system. ALA. CODE § 17-4-33 (Supp. 2011).

The probate judge serves as the chief election official within the county. ALA. CODE § 17-1-3(b) (2006). The judge and his or her staff are authorized to perform most functions within the voter registration system, with the exception of voter registration or absentee management. Alabama HAVA Project Statewide Security Policy, at 3 (2008). The county commission is authorized to provide the probate judge and the board of registrars with assistants to help them in their prescribed duties. ALA. CODE § 17-3-60 (2006). As a practical matter, the hiring and compensation of such assistants must be coordinated with the county commission, the board of registrars, and the probate judge.

Another user group identified in the Security Policy is referred to as the “County users-Street file/precinct maintenance.” The conditions set forth in the Security Policy regarding these county users states that “[t]hese users are responsible for maintaining/updating the street files and precinct definitions. This role will be filled by different users from county to county *as designated in writing by the County Commission.*” Alabama HAVA Project Statewide Security Policy, at 3 (2008) (emphasis added).

As stated above, the terms of the Security Policy give the county commission the authority to designate, in writing, the roles for street-file users. Based upon the statutory and Security Policy’s duties given to the Secretary of State, the board of registrars, the probate judge, and the county commission with respect to elections and the voter registration system, the county commission, the board of registrars, and the probate judge should work together to determine

who is best suited to be responsible for the street files and precinct maintenance for the county and for any municipalities within the county. The Secretary of State is responsible for the overall security of the system, and thus, should give oversight and guidance with respect to the users of the system.

The parties involved may agree that the board of registrars will be responsible for all the duties for street files, agree to divide the duties between the probate office and the board of registrars, or agree to give the probate office all the duties for the street files, or just the street files for the municipalities within the county. Once the parties have reached an agreement under the general guidance of the Secretary of State, the county commission must designate these roles in writing. Again, it should be noted that the county and the board of registrars are required to cooperate with municipalities in the county to enter into a contract to provide the municipalities with a voter identification program.

CONCLUSION

The county commission, the board of registrars, and the probate judge should work together to determine who is best suited to be responsible for the street files and precinct maintenance for the county and for any municipalities within the county, subject to the oversight and guidance of the Secretary of State as set forth in the Alabama HAVA Project Statewide Security Policy for the Alabama Voter Registration and Election Management System. The county commission must designate these roles in writing.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Rob Johnston, Legal Division, Secretary of State's Office.

Sincerely,

LUTHER STRANGE
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division