

# ThinkTennessee

## Voting in Tennessee in 2024:

### Education Series Part 2 of 5

# Casting Ballots

Federal laws, e.g., the 1965 Voting Rights Act, 1993's National Voter Registration Act, and 2002's Help America Vote Act, set the guidelines for the administration of elections across the country. However, elections are administered at the state level. Policies from voter registration eligibility to how voters can cast their ballots vary from state to state.

This series highlights key elements of Tennessee's election laws so Tennessee voters can successfully participate in elections.

### **What Tennessee voters should know about casting ballots:**

- **Election Types and Timing:** Who and what you vote for
- **Casting Ballots:** When, where, and how you vote
- **Polling Place Procedure:** Polling place do's and don'ts

Tennesseans vote in elections to determine multiple outcomes- from local, state, and federal representatives to changes to local charters and the state constitution. The rules and processes for how voters participate in these different types of elections are the same.

## **Casting a Ballot in TN:**

- You need a Tennessee or federally-issued photo ID to cast a ballot in person. Student IDs are not accepted.
- On Election Day, you must vote at your assigned polling place. But if your county operates Vote Centers on Election Day, you can cast your ballot at any designated Vote Center in the county.
- During an Early Voting period, if your county has more than one polling place open, you can cast your ballot at whichever location you choose.
- Some polling locations may be used just for Early Voting or Election Day, and others will be used for both, Check with your County Election Commission to confirm what your polling place options are.

## **Election Types and Timing: Who and what you vote for**

- Types of Elections:
  - **Primary and General Elections** (Primaries are the Nominating Elections for General Elections):
    - **Primary Elections:**
      - Republican and Democratic candidates compete within their same political party in these “nominating” elections.
      - Winners go on to represent the party in the general election.
    - **General Elections:**
      - Candidates in this “final” election compete against other political parties or Independents.

- Winners are elected to the position.
- **Run-Off Elections:**
  - Some local or tied races lead to Run-Offs
    - In some counties, run-off elections may determine local or tied races.<sup>1</sup> For example, the top two Nashville mayoral candidates run again if no one receives at least 50% of the vote in the primary.
- **Special Elections:**
  - Vacancies may require Special Elections
    - A vacancy- when an elected official leaves office before the end of the term- that occurs outside of the regular election cycle requires a “special” election to fill the seat.
- **Amendments and Referendums:**
  - Tennesseans may also vote on issues
    - Constitutional Amendments:
      - Voters can support or oppose proposed changes to the state constitution in gubernatorial election years.<sup>2</sup>
    - Ballot Referendums:
      - Voters may also vote to change local charters (i.e., term limits) or on issue campaigns (i.e., transit plans).

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<sup>1</sup> Tied elections result in different outcomes, depending on the seat being filled. In a tied gubernatorial election, the General Assembly casts the deciding vote. In a tied U.S. House of Representatives election, the governor casts the deciding vote, and for the U.S. Senate, a special election is called to determine a winner. In elections for municipal offices and some county offices, the local legislative body could call for a run-off election. Tenn. Code Ann. § 2-8-111.

<sup>2</sup> To pass, constitutional amendments must receive more “yes” than “no” votes and more “yes” votes than 50% of the total votes cast for governor.

- **Did You Know?**

- **Constitutional amendments can only be placed on the ballot by legislators.**
  - The General Assembly must pass a joint resolution proposing a constitutional amendment in two consecutive sessions before it gets on the ballot for voters.<sup>3 4</sup>
- **Local ballot referendums can come from voters.**
  - Processes vary, but referendums can get on the ballot with the support of 10%-15% of registered voters.<sup>5</sup>
- **Tennesseans do not register by party, so we choose which primary to vote in.**
  - You can participate in a party's primary if you are affiliated with, or state your intent to affiliate with, that party.<sup>6</sup>

- **Timing of Elections**

- Elections for federal, state, and county offices are held during even years, and Tennessee municipal elections vary and may occur during odd years.
- **Federal Elections:** Presidential or Congressional "Midterm"

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<sup>3</sup> General Assembly sessions in Tennessee are two-years, so two consecutive sessions is a four-year period.

<sup>4</sup> Joint resolutions must receive a majority of votes in the first session and two-thirds majority in the second. Tennessee Const art XI § 3. A two-thirds majority is at least 22 members in the state senate and 66 members in the state house of representatives.

<sup>5</sup> The requirements for placing issues on local ballots in Tennessee are within local charters and not uniform across the state. The process may differ by types of issues eligible for the ballot or threshold of required signatures. For example, voters of Nashville-Davidson may petition for a change to the local Charter with signatures of at least 10% of registered voters (See Metro Charter, Sec. 19.03(e)).

<sup>6</sup> Tenn. Code Ann. § 2-7-115(b) states that you must be a "bona fide member of and affiliated with" a party or at the time you vote, you declare "allegiance to" and state your intent "to affiliate with" the party. The law is meant to prevent "crossover" voting of intentionally voting in a Democratic primary if you identify as a Republican and vice versa. However, if you are an unaffiliated or independent voter, you can choose which party primary to participate in.

- **President:** Every four years
- **Congress:** Every two years
- Voters in all states cast ballots in November, but state primary elections occur at various times. Tennessee's presidential primary is in March (Super Tuesday). Primaries for other federal offices (and non-presidential cycles) are in August.
- **State Elections:** State Legislature and Governor
  - **Governor:** Every four years
  - **State Legislature:** Every two years
  - Elections for state offices follow the same cycle as federal elections, with our gubernatorial elections occurring during the "midterm" federal election.
- **Additional Elections**
  - **Judicial and County-Level Offices:** Every even year<sup>7</sup>
    - March Primary and August General (Presidential Cycle)<sup>8</sup>
    - May Primary and August General (Midterm Cycle)
  - **Municipal Elections:** Even or odd years
    - Cities can hold municipal races at the same time as federal and state-level elections or on a separate cycle

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<sup>7</sup> Judges are elected for eight-year terms, with some running for election, e.g., state trial court and county judicial offices, and others running for retention election, e.g., state Supreme Court and court of appeals. The governor appoints judges for the state Supreme Court, court of appeals, and court of criminal appeals. Voters then vote to "retain" these judges at the end of their first term. County-level offices include county mayors and commissioners, sheriff, assessors of property, and school board members.

<sup>8</sup> States hold their presidential preference primaries at different times.

(including in odd years).<sup>9</sup>

- State and Federal Election Cycle Timeline

- **Terms of Office:**

- President serves 4 years, 2 terms max
    - U.S. Senator serves 6 years
    - U.S. Representative serves 2 years
    - Governor serves 4 years, 2 terms max
    - TN Representative serves 2 years
    - TN Senator serves 4 years

## **Casting Ballots: When, Where, and How You Vote**

- When and where to vote
  - **Early voting:** Use **any** polling place in your county
    - Tennesseans have been able to cast ballots before Election Day since 1994. Early Voting starts 20 days before and runs up to 5 days before Election Day (7 days before Election Day during the Presidential Preference Primary).
    - Counties can decide where and when to open Early Voting locations—smaller counties may have just one location—but they must be open at least three consecutive hours each weekday—including Saturday—between 8:00 a.m. and 6:00 p.m. local time.<sup>10</sup>
  - **Election Day:** Use your **assigned** polling place

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<sup>9</sup> Cities, regardless of charter-type, may determine when to hold elections. Tenn. Code Ann. § 6-54-138 (private act charters); Tenn. Code Ann. § 6-3-104 (mayor-aldermanic charters); Tenn. Code Ann. § 6-20-102(c) (city manager-commissioner charters); Tenn. Code Ann. § 6-31-102 (modified city-manager council charters).

<sup>10</sup> There are some exceptions based on county population size. For example, counties with populations smaller than 5,000 can determine Saturday hours. Tenn. Code Ann. § 2-6-103.

- If you are casting your ballot on Election Day- except for in counties with Vote Centers- you must go to the specific polling place assigned to you.
- Six Tennessee Counties operate Voter Centers on Election Day (Weakley, Henry, Williamson, Sumner, Wilson, Rutherford)
  - Vote Centers operate like Early Voting where you can use any polling place in the county; you do not have to use the one assigned to you based on your address
  - Washington, Sullivan, and Sumner received permission but have not implemented Vote Centers yet.
- **Did You Know?**
  - **Your home address determines where you vote.**
    - Your home address places you in a district that determines which elected offices represent you and a precinct that assigns your Election Day polling place.<sup>11</sup>
  - **Early Voting ballots are not counted until Election Day.**
    - Election officials can tell you how many votes were cast during Early Voting, but results (how many votes each candidate received) are not known until after polls close on Election Day.
  - **Early Voting is not required for certain**

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<sup>11</sup> A voting precinct is a geographical unit for the holding of elections having one polling place. Tenn. Code. Ann. § 2-1-104(a)(18). All voters in a precinct are assigned the same Election Day polling place.

## **elections.**

- In certain elections, if a race does not have more than one candidate, there will be no Early Voting period.<sup>12</sup>
- Some voters who cannot make it to the polls have additional opportunities to cast their ballots in person.
  - Election officials conduct on-site voting at nursing homes and assisted living facilities, hospitals, and jails.<sup>13 14</sup>
- How to Vote
  - Tennessee voters can cast ballots at a polling place or vote absentee.
  - Casting a ballot at a polling place
    - Voters cast ballots in person at a polling place one of three ways.
      - **Hand-marked paper ballots:** Voters use a pen to mark a paper ballot that is then scanned into a machine.<sup>15</sup>
      - **Voting machines:** Tennessee counties use one of two types of voting machines.
        - Machine with an attached printer. Voters make selections on a

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<sup>12</sup> Tenn. Code Ann. § 2-6-102(b)(1). There is no Early Voting period for certain elections if there is no opposition to any race, including no qualifying write-in candidate. These elections include a special primary election for state or federal office, or a primary called by a party (Tenn. Code Ann. § 2-13-203), or general elections held at certain times (not in conjunction with other scheduled elections). The exception to this rule is for municipal elections held in the largest municipality in a county with a metropolitan form of government and more than 500,000 people. Tenn. Code Ann. § 2-6-102(b)(2).

<sup>13</sup> Nursing home residents are defined as residents of licensed nursing homes, assisted care living facilities or homes for the aged (other than a penal institution), including independent living facilities on the same property. Tenn. Code Ann. § 2-6-601. County Election Commissions perform on-site voting up to 29 days before Election Day.

<sup>14</sup> You can also make an emergency request to your County Election Commission within 20 days of an election if you're unable to vote in person due to an emergency. Tenn. Code Ann. § 2-6-401.

<sup>15</sup> During a February 20, 2024, Senate Finance, Ways, and Means Committee presentation, the coordinator of elections reported that 17 counties use hand-marked paper ballots.



machine screen. Your choices are printed onto a paper roll attached to your screen for you to confirm.<sup>16</sup>

- Hybrid ballot marking device. Selections voters make on a screen are printed onto a paper ballot that can be reviewed before being inserted into a separate machine where it is counted and saved.

- **Provisional ballots:** If you do not appear on a voter roll or have a photo ID, you may still cast a “provisional ballot.”

- These ballots are sealed in an envelope with a detachable affidavit containing your identifying information and the reason you are voting provisionally. They are reviewed and either accepted (if you are found to be eligible) or rejected.<sup>17</sup>

- Absentee Voting (see Part 3 for more details)

- **Three types of voters** unable to make it to a polling place during the Early Voting period or on Election Day may vote absentee and return their ballot by mail.

- **Permanent Absentee Voters:** Voters may register as a “permanent absentee voter” and receive an absentee ballot

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<sup>16</sup> A printer roll is attached to these voting machines. You can see your ballot under a protective screen. Once you are finished, your ballot rolls away; the next voter cannot see it.

<sup>17</sup> Similar to the absentee ballot counting boards, provisional ballots are counted by boards that include an election officer and election judges appointed from both Republican and Democratic parties (Tenn. Code Ann. § 2-4-104), or if there are fewer than 100 ballots to be counted, the election commission serves as the counting board. Tenn. Code Ann. § 2-7-112(a)(3)(B)(i).

for every eligible election.<sup>18</sup>

- **Uniformed and Overseas Citizens:** Voters overseas, including members of the Armed Forces and their families, may request an absentee ballot from [fvap.gov](http://fvap.gov) which can be mailed or emailed to them.<sup>19</sup>
- **Certain Eligible Voters:** Voters meeting specific excuses for why they are unable to make it to a polling place may request to vote absentee.
  - Voters eligible to vote absentee:
    - **Age:** Voters who are at least 60 years old
    - **Out of Town:** Voters out of state on Election Day or during Early Voting
    - **Health:** Voters who are- and caretakers of those who are- hospitalized, ill, or have a physical disability
    - **Role:** Voters who are unable to attend the polls due to their role in the election or jury duty
    - **Special Circumstances:** Voters who cannot vote in person because they are observing a religious holiday or have an inaccessible polling place

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<sup>18</sup> Tenn. Code Ann. § 2-6-201(3)(A). Voters with a physical disability or who are sick or unable to vote in person can register to become a permanent absentee voter. A physician's note is required in this case, and voters will be mailed a ballot application for every election they are eligible to vote in (they do not need to apply each election).

<sup>19</sup> Tenn. Code Ann. § 2-6-502. See also Secretary of State Guidance available at <https://sos.tn.gov/elections/guides/how-to-vote-absentee-for-military-and-overseas-voters>.

- **Did You Know?**

- **Once you cast your ballot, you cannot change it.**

- You should always review your ballots before submitting them. If you see a mistake or change your mind, you can make these changes before you cast your ballot.

- **All Tennessee counties now provide paper backups.**

- As of **January 1, 2024**, all voting machines in Tennessee must provide a paper backup- a “voter-verifiable paper audit trail” (VVPAT).<sup>20</sup>

- VVPATs provide an additional level of verification and security. Paper backups can be matched with the totals provided by machines during election audits for confirmation.

- **Voting precincts should be made accessible if possible.**

- If you have been assigned to a precinct that cannot reasonably be made accessible, you may arrange to vote on Election Day at your County Election Commission office.<sup>21</sup>

- **Voters requiring assistance can have help casting a ballot.**

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<sup>20</sup> Tenn. Code Ann. § 2-9-101. The legislature passed a law in 2022 (Public Chapter 1144) requiring all Tennessee counties to use voting machines that provide a VVPAT by 2024. See <https://publications.tnsosfiles.com/acts/112/pub/pc1144.pdf>.

<sup>21</sup> Tenn. Code Ann. § 2-3-109. Elderly voters and voters with disabilities can also vote absentee or during Early Voting. Each polling place has poll workers, including “election judges” who distribute paper ballots and serve in place of other election officials as needed. Tenn. Code Ann. § 2-7-102.

- If you have a physical disability, are unable to read, or are unable to mark your ballot on your own, you can bring someone with you or have an election judge at the polling place assist you.<sup>22</sup>
- **You must mail in your absentee ballot.**
  - To be counted, absentee ballots must be returned by mail and received by the close of polls on Election Day.
  - You cannot take your ballot to your County Election Commission in person.
- **Provisional ballots require follow-up.**
  - Either election officials or voters must take additional steps after casting a provisional ballot, depending on the circumstance.
    - **Election Officials:**
      - If you are not on the voter roll but think you registered to vote, election officials have four business days after Election Day to review registration records.
      - If they find that you should be on the voter roll, your provisional ballot will be counted. If they can't confirm you should be registered, you will be notified and registered for the next election.<sup>23</sup>
    - **Voter:**
      - If you have forgotten an accepted form of photo ID or you do not have one,

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<sup>22</sup> Tenn. Code Ann. § 2-7-116. Anyone convicted of voter fraud cannot assist a person in voting. Election officials keep a record of the voter and the person providing the assistance.

<sup>23</sup> You submit a voter registration application while completing a provisional ballot. If you are found not to be registered, that application is processed and you will be registered for the next election.

you have two business days to come back with it, or to get one.

- If you can present your ID to election officials in this time frame, your ballot will be counted.

## **Polling Place Procedure: Do's and Don'ts**

### **● Polling Place Do's**

- Most Tennessee voters must show a valid federal or state-issued photo ID. Accepted forms of Voter ID:
  - TN Driver's License
  - U.S. Passport
  - Photo ID issued by the TN Department of Safety and Homeland Security
  - Federal or TN Government-Issued Photo ID
  - U.S. Military Photo ID
  - TN Handgun Carry Permit with Photo

### **● Polling Place Don'ts**

- Not Accepted Forms of Voter ID
  - College Student ID
  - Photo ID not issued by Federal or TN State Government, e.g., Library Cards or Photo IDs issued by other states
- Voters are not permitted to do or wear certain things inside, or near, polling places.
  - **Campaign materials:** You cannot have posters and signs or wear clothes or accessories with candidates or party names, slogans, or emblems in a polling place. If you are wearing only one of these items, they must be covered when you

come within 100 feet of the polling place.<sup>24</sup>

- **Vote solicitation:** Candidates or supporters are not allowed to solicit votes within 100 feet of a polling place entrance.<sup>25</sup> Violation of this policy is a Class C misdemeanor.<sup>26</sup>

- **Persons not allowed:** Law enforcement cannot come within 10 feet of a polling place other than to vote or at the request of election officials (or to make an arrest).<sup>27</sup>

- **Did You Know?**

- **You may use an expired photo ID.**

- Your qualifying ID can be expired.

- However, if you are a first-time voter and registered by mail or online, you must also have a document- a current utility bill, bank statement, paycheck, or other government document that shows your name and address.

- **The restriction on campaign materials applies only to candidates on the ballot.**

- Campaign materials or slogans for candidates not on the ballot are allowed.

- **Some voters are exempt from showing a photo ID.**

- Absentee voters and those who are hospitalized, indigent, and unable to obtain

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<sup>24</sup> Tenn. Code Ann. § 2-7-111.

<sup>25</sup> Ibid.

<sup>26</sup> Tenn. Code Ann. § 2-19-119.

<sup>27</sup> Tenn. Code Ann. (Section) 2-7-103. Only election officials, voters and those assisting voters, press, and poll watchers are allowed inside polling places.

a photo ID without paying a fee, or who are residents of nursing homes who vote at the facility or have a religious objection to being photographed do not need to show a photo ID.

- **You cannot be paid in exchange for voting.**

- Voters may not be paid or offered anything “of value” to vote for or against a candidate or issue or for having gone to or remained away from the polls.<sup>28</sup> No state law prohibits giving food or water to voters waiting in line at a polling place.

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<sup>28</sup> Tenn. Code Ann. § 2-19-126. Violation of this law is a Class C felony. Tenn. Code Ann. § 2-19-128.