

A LIMITED REVIEW OF THE AIKEN COUNTY BOARD OF VOTER REGISTRATION AND ELECTION

AUGUST 2022

PREPARED FOR THE MEMBERS OF THE **A**IKEN **C**OUNTY LEGISLATIVE DELEGATION:

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Audit Objectives

On June 21, 2022, the Aiken County Legislative Delegation ("Delegation") asked the Executive Director of the S.C. State Election Commission ("SEC") to conduct an audit of the Aiken County Board of Voter Registration and Election, pursuant to the SEC Executive Director's auditing mandate and authority contained in S.C. Code of Laws §7-3-20(D)(3).

The objectives of the audit were to determine whether various processes and procedures exist and, if so, were those policies and procedures followed during the June 2022 primary elections and runoffs. Specifically, the Delegation's audit request listed several concerns related to the processing of blue ballot bins and provisional ballots, the canvassing process, as well as staffing and funding concerns.

Audit Scope

For the majority of the audit, the review period was focused on processes and procedures for the June 2022 Primaries and Runoffs. The scope was widened, however, during the SEC's review of staffing and funding review to give historical context and explain funding trends—in that case, the SEC looked at funding requests and appropriations for the last five fiscal years.

Organizational Background and Context

In 1976, Lexington County was the first county to pass a local ordinance merging their board of voter registration and board of elections into one board of voter registration and elections. By 2013, most counties had passed similar ordinances and the S.C. General Assembly

codified these ordinances into state law (§7-5-10(C)), ensuring all 46 counties uniformly had a single board for voter registration and elections.

Members of county boards of voter registration and elections are appointed by the Governor, upon recommendation by each respective county's legislative delegation. The sole statutory requirement for being appointed to a county board is Board Members must be "...competent and discreet persons in each county, who are qualified electors of that county." (§7-5-10(A)(1)).

Board members are paid stipends by the SEC quarterly, as long as the board members meet certain training and continuing education requirements (§7-5-10(D)(1-4)). Board members are not compensated by their respective county governments.

Board members have two main statutory responsibilities: certifying the election results of elections held in their county and hiring/supervising their county director (\$7-5-10(B)(1-7) and \$7-5-30). There are no statewide uniform or minimum education or experience requirements to be a county director, other than those that may be created by each respective county board.

County directors and their staff are employees of their county governments. Their compensation, office space, supplies, and other expenses are entirely funded by county government appropriations. Though county election offices are governed by a board appointed by the Governor, the offices are completely county departments (SC AG opinion 06/15/2020 and SC AG opinion 12/18/2017).

S.C. Code of Laws §7-5-10(C) brought a measure of clarity and structure to voter registration and elections at the county level but has also inadvertently created confusion. Contrary to state law and the cited AG opinions, many county councils, county administrators, and county attorneys throughout the state still hold on to the incorrect belief that county election offices are state offices because their boards are appointed by the Governor, the SEC reimburses the offices for a portion of statewide election expenses, and the SEC holds minimal supervisory authority over the county offices.

This misunderstanding of how elections are structured has, in turn, caused many county councils to not fund their county election offices adequately and offer other support—some have even gone so far as to prevent their county attorney from giving the county director or board members legal advice and telling them to turn to seek counsel from the SEC's general counsel (who cannot give them legal advice).

The Delegation should read this audit report (and others that will follow in the future) within this historical context. The state has county boards of voter registration and elections, whose members are appointed by their county legislative delegations, through the Governor. These board members are the governing body of each county voter registration and election office and, in turn, hire a director to manage the office and hire staff to operate the office. Though county directors are hired by their Boards, they are county employees and hire a staff of county employees. Both the county directors and their staff are controlled and funded by county HR policies and procedures and county appropriations. County appropriations are the sole source of county office funding. The state, through the SEC, also has limited "supervisory authority" over the county boards and their staff, but has no recourse to correct non-compliance, neglect, or malfeasance by county election officials (beyond requiring a county election official to repeat the county certification program). This dichotomy is not even including the issue of Municipal Election Commissions which are largely exempt from following any of the state's election laws (§5-15-90) (the exception being those municipal election commissions that have relinquished their elections to their county offices)

Please also note that the terms "Poll Clerk" and "Poll Manager" are terms used in the S.C. Code of Laws. A Poll Clerk manages a polling place, and a Poll Manager is a worker within a polling place that is managed by a Poll Clerk. The term "Poll Worker" is a common term that applies to both Poll Clerks and Poll Managers. Finally, please take note that "Precincts" are not necessarily the same as "Polling Places." A polling place is a physical location where a voter votes. It is the responsibility of each county office to find polling places for each of their elections (i.e. churches, schools, libraries, etc.). A precinct is geographic voting block of voters and those are created, named, renamed, or dissolved entirely by each county's legislative delegation. Ideally, there should be one polling place for each precinct, but there are situations where two or more precincts may have to be consolidated into one polling place.

The SEC is grateful to the S.C. General Assembly for funding the creation of a new audit division within the agency. While this specific audit was performed by existing staff, the new audit division will be staffed by performance and compliance auditors who will be conducting county compliance audits throughout the year and publishing those audit reports for review by you and your constituents.

The following report sections correspond directly to the numbered issues in the Delegation's June 21, 2022 letter to the SEC, and are cited for reference.

Section 1: Processing and Handling of Ballot Boxes and Provisional Ballots

The Delegation's letter requested that the SEC, "...investigate and review the following:

- confusion due to duplicate blue boxes (one from a previous election) causing ballots to be left uncounted in the June 2022 Primary Elections;
- (2) mishandling of provisional ballots (five from one precinct and three from others) in the June 2022 Primary Elections;
- (3) failure to consider provisional ballots before certification of the primary results in the June 2022 Primary Elections;

The SEC reviewed these issues and below are the agency's findings and recommendations.

<u>Finding 1</u>: The SEC determined that there are no written election night intake procedures. There was also confusion due to duplicate ballot boxes (including one from a previous election) that caused provisional ballots to be left uncounted in the June 2022 primary elections.

<u>Finding 1 Discussion</u>: During the June Primary election, Aiken County had 26 new poll clerks, all working at various locations throughout the county. At 7:00PM, poll clerks oversee the closing procedures at their polling location and are responsible for delivering election paperwork, ballot scanner flash drives (with election results), scanner results tapes, and the blue ballot bins containing the voted ballots back to the county office on election night.

The low number of full-time office staff means that the bulk of the election night intake process is conducted by Board members and temporary staff. The SEC found that the poll clerk for the New Ellington #23 precinct brought back the ballot scanner flash drive, as well as the scanner results tapes, but did not bring back the blue ballot box containing the voted ballots from the polling place. Confusion began when a temporary worker in the county office saw a blue ballot

box labeled "New Ellington #23" in the county warehouse and incorrectly assumed it was the blue ballot bin from the Primary Election, when, in fact, it was a spare blue ballot box that was used in a previous municipal election and was not stored in a separate location from the blue ballot boxes that were being checked in on the night of the Primary Election. The worker delivered the blue ballot box to the Board members conducting check-in. The box was opened, and no ballots were found inside. The SEC was not able to determine what, if any, steps were taken next upon this discovery. In the immediate days following the Primary election, temporary warehouse workers began picking up equipment from polling locations. At that point, it was discovered that the New Ellington #23 blue ballot box was left inside its ballot scanner, which was locked and sealed, with the seal still intact.

Finding 1 Recommendations:

- (1) The County should designate a staff member whose duty on election night is organizing the post-election intake procedures.
- (2) The location of the blue ballot boxes should be in a central secure location, away from other unused Blue Ballot Boxes.
- (3) A portion of the county's Poll Clerk training program should focus solely on election night procedures—from closing their assigned polling place, to their role in the election night intake process at the county office.
- (4) The county election night intake process should be memorialized into written procedures, and all staff working in the office on election night (full time employees, temporary employees, and Board members) should be trained on the procedures.
- (5) The election night intake procedures should also include a simple checklist for staff, to be utilized and updated throughout the night as the intake process progresses and items are returned from polling places.

(6) Prior to the County Board certifying the results of the election, at least two employees should jointly inspect all ballot scanners for ballots inadvertently left in the scanners.

<u>Finding 2:</u> Eight provisional ballots were mishandled during the 2022 Primary Election. These eight provisional ballots were not considered or included in the County Board's certification of the June 2022 Primary Election.

<u>Finding 2 Discussion</u>: Several factors led to the mishandling of eight provisional ballots from three different precincts in the June 2022 Primary Election.

The procedure for returning provisional ballots to county offices on election night is for each poll clerk to place their polling place's provisional ballot envelope in the blue ballot box and returning the blue ballot box to the county office.

As was mentioned in Finding 1, the Poll Clerk for the New Ellington #23 precinct did not return the blue ballot box for the polling place; in addition to that polling place's ballots, that blue ballot box also held New Ellington #23's provisional ballot envelope, which contained five provisional ballots. As was previously mentioned, this was not discovered until equipment pickup, which was after the Aiken County Board certified the results of the election, and the scanner was found locked and sealed with the blue ballot box inside.

The New Ellington #23 Poll Clerk was a new Clerk and had never completed polling place closing or election night intake procedures. The Clerk completed the polling place closing checklist and the ballot reconciliation form. However, upon reviewing the ballot reconciliation form, the number of ballots issued did not match the number of ballots at the end of the night—simply put the math did not add up. Furthermore, no county election official reviewed the ballot reconciliation form prior to certification by the Aiken County Board.

On the Monday following the June 2022 Primary Election, temporary workers working in the office were sorting through blue ballot boxes in the office. The workers discovered three provisional ballots in two sealed blue ballot boxes from two different precincts—the Aiken #5 precinct and the Redd Branch #57 precinct. This demonstrated that, in this instance, (unlike with New Ellington #23), the poll clerks returned the blue ballot bins to the county office—however, the blue ballot bins were not properly inspected during the election night intake process.

Finding 2 Recommendations:

- (1) The county director should designate a staff member whose duties include processing provisional ballots during the election night intake process.
- (2) The county director should ensure the ballot reconciliation sheets from each polling place are not only completed, but also reviewed for accuracy. Any discrepancies in the ballot reconciliation sheet need to be explained prior to the poll clerk being dismissed on election night.
- (3) Any full-time staff, part-time staff, or Board members that are assisting during the election night intake process need thorough training on the intake checklist and how to process any item they handle.
- (4) Staff picking up voting equipment after the election should continue to inspect all ballot scanners for ballots before storing the scanners in the warehouse.

Section 2: Staffing Issues

The Delegation's letter requested that the SEC, "...investigate and review the following:

- (4) adequate staffing from the County Board office in order to ensure that election workers have sufficient training, support, and oversight so that elections are properly conducted;
- (5) adequate staffing on election days as to trained poll workers and poll managers including having additional workers and managers available when there is a shortage due to vacation, sickness, etc.;

The SEC reviewed these issues and below are the agency's findings and recommendations.

<u>Finding 3</u>: The Aiken County Office does not have adequate staff to fulfill their duties effectively—either within the office, nor at the polling places.

Finding 3 Discussion:

County office Staffing

The Aiken County Office consists of four full time employees. The positions include the executive director, deputy director, clerk, and election technician. Cynthia Holland, Executive Director, started as a clerk in 1998 and was progressively promoted to the director position in 2011. Michael Bond has been at the county office for 11 years and was very recently given the title of Deputy Director. Michelle Harper-Meriwether is currently employed in the Clerk III position and has been there for almost two years. The final full-time position is that of the Election Technician. This position was previously staffed by Amy Leonhardt, who retired in November 2021. The position is currently open and hoping to be filled as soon possible, potentially by a current temporary worker that has been there since the end of April 2022, Ashley Scott.

Aiken county has a population of approximately 170,000 and a voter population of approximately 115,000. In comparison to other counties of similar population size, Aiken County has a smaller staff. On most days, the staff fills in where needs arise. While all county offices are encouraged to have employees cross trained in multiple functions to ensure that more than one person knows how to complete core duties, issues arise when there is not a clear outline of who is responsible for each duty. The issues are further complicated every time there is an election, as staff takes on extra responsibilities in addition to the core duties. With the changes in new legislation, the county staff also has concerns as to how to adequately staff extra early voting centers beyond the county office. They over-extended with the staff they have, but want to provide resources for candidates and voters and wish they could be in the position to offer the additional locations.

Counties of Similar Size:

	Total	Voting	Number of Staff	
	Population*	Population**		
Anderson	204,000	125,000	8 full time, 2 part time	
Beaufort	187,000	137,000	9 full time	
Dorchester	162,000	106,000	6 full time	

*numbers from US Census website

**population generated from VREMS Voter Registration Statistics by Status report

All three counties have similar voting populations, yet Aiken County has a smaller staff. For the past several years, the Aiken County Office has submitted budget requests that included funding for additional FTE's. However, none of those requests were approved.

Reduced staff has contributed to the current staff taking on additional duties to assist others in the office when needed. Here are four examples the SEC found:

Example 1: UOCAVA requests. Michael oversees the handling all UOCAVA ballots being sent to all requestors; however any staff member could receive a call requesting the UOCAVA ballot. Unless that staff member communicates this information to Michael, he may be unaware that a new request has come through.

Example 2: Lines of voters in county office during early voting. When there is a line of early voters, there are only two individuals working in the front during because the election technician is programing equipment in the back of the office and the executive director is testing equipment. Two other staff members are trying to work through everyone in the line, plus answer all incoming phone calls. If only two staff members are available to process voters, voters will be waiting. If temporary staff are hired, they could help, but probably will not have the knowledge or competency to answer any difficult or challenging questions and will, therefore, need assistance from one of the two staff members working the front desk area. The election technician can leave the warehouse area to go up front and assist but must have a solid process in place for knowing exactly where they were in the programming process when they return to their duties. If there are any missteps in the process, it may not be revealed until the equipment goes through testing.

Example 3: Poll worker training. Michelle, Michael, and Amy (before retirement) have all trained poll clerks and poll managers. This has created confusion amongst poll workers as to what their responsibilities are on election day due to the way they have been trained, depending on who was instructing them.

Example 4: Handling customer inquiries. Michelle indicated that there were no written procedures for her to follow when she joined the office. As she is the main staff member sitting in the front office area who is responsible for assisting voters who call in or visit in person, she must also train

any temporary staff for these job duties as well. She has created some simple procedures from them to follow. However, with Michelle still being new to the office and not having worked many elections, there are scenarios and questions she is still unable to answer. She cannot always help the temp workers and relies on more experienced staff members for knowledge.

Finding 3 County Office Staffing Recommendations:

- (1) Hiring of at least three or four new, full-time, staff. This would put the county in line with other counties of similar size.
- (2) Develop in-house office procedures. Regardless of which staff member completes the tasks, individuals will follow the procedures and make sure the responsible party is aware of any issues/outstanding items to be completed. Procedures will also help with the training and retention of any new staff that is brought on board. Written procedures help preserve and record actions that staff should take for various duties/functions.
- (3) Defined job duties each staffer needs to know which areas for which they are responsible. Staff members can help in any area as needed/requested. Ultimately, someone is responsible for each function/duty. That individual needs to be responsible party who can oversee what needs to be done. (Unless they are out of the office/leave)

Polling Place Staffing

Michelle Harper-Meriwether, Clerk III, is responsible for the poll manager program. The entire program includes: the online training program; all poll manager work assignments, entering the information into VREMS, and completing any other paperwork related to poll managers such as county on-boarding paperwork; contacting poll managers for elections at the beginning of each year; calling and verifying the poll manager will still be able to participate closer to each election; and utilizing phone, email, and mail as a means of contact (for the students working as poll managers, Ms. Meriwether utilizes text messaging).

The SEC found that poll clerk and poll manager recruitment is primarily through word-of- mouth and online submissions through the SEC's recruitment website <u>www.noexcusesc.gov</u>. The main recruitment challenge is finding poll managers and clerks to work in remote locations; in some instances, clerks and managers state they are willing to work, but when they learn they have to work in more remote areas, they state they are no longer available. Unlike many other counties, Aiken County does not supplement Poll Manager pay beyond what the SEC reimburses.

For the primary, the SEC found there were seven confirmed poll managers who attended training, but did not work. For the run-off, there were four confirmed poll managers who attended training, but did not work. Reasons given for not working for the Primary were: illness, death, or other unspecified family constraints. The poll managers who simply did not show for the run-off gave no reasons.

While Ms. Meriwether is the primary poll manager program manager, the SEC found that the duties of the poll manager program are, in reality, divided among the staff. It is suspected this practice relieves the pressure off Ms. Meriwether because she is not only responsible for the poll manager program, but also all front-desk duties. The SEC found Ms. Meriwether instructs the poll manager portion of the training, Michael Bond instructs the Electronic Poll Book portion of the

program when they have large elections, and Ashley Scott is responsible for training the polling technicians. Amy Leonhardt, retired staff, came back to assist and train Ashley Scott. At one point during the training process, Ms. Scott had to stop programming election equipment to assist with front desk duties while Ms. Meriwether performed new clerk training.

Finding 3 Polling Place Staffing Recommendations:

Suggestions:

- (1) Hire additional staff to cover the front desk, allowing Ms. Meriwether to concentrate solely on poll clerk and poll manager training.
- (2) Cross-train an additional staff member who can assist Ms. Meriwether with the training.
- (3) Cross-train a staff member who would be able to assist Ms. Meriwether with VREMS data entry (adding poll managers to VREMS for work assignments/online training set-up, entering reimbursement information, etc.).
- (4) E-Poll Book training should not be limited to the clerk and one additional poll manager. All poll managers should be trained to use the E-Poll Books. Doing so will ensure coverage in the event of the absence of a clerk and the only other poll manager trained in its use.
- (5) Ms. Meriwether primarily uses the telephone to contact poll managers. Ms. Meriwether stated there were over 500 poll managers on her primary contact list. Ms. Meriwether should ascertain which method of contact poll managers prefer. This would reduce the amount of time Ms. Meriwether spends attempting to contact potential poll managers, leaving voice mails, or recalling poll managers for whom she was unable to leave voice mails. Additionally, continuing the use of text messaging and, in some cases, letters via USPS will reduce on the amount of time spent on the phone.

- a. Continue starting at the beginning of each calendar year to contact poll managers for elections in an upcoming year.
- b. Programs such as "One Call Now" & "Remind 101," which are utilized by other counties, can be utilized to contact potential and confirmed poll managers. One Call Now is currently provided by the SC State Election Commission to the counties, at no cost to the counties. Remind 101 is a free service for a limited number of pushed phone numbers and fee based afterwards. MightyText is a program that allows users to download an app to a smartphone for purposes of the cellular number. The app is also downloaded to a desktop computer and from the computer you can type of mass, individual text that allow or disable responses. There are additional services that can be utilized, depending on the type of phone (Android or Apple) used by the office.
- (6) The only recruitment methodologies currently in place are word of mouth and online submissions. It is suggested the director consider rotating staff to conduct poll manager recruitment drives at local festivals and other local events. Although each political party submits names of potential poll managers, the poll manager trainer should follow up with the party heads in the event the people they submit do not show. Commissioners should assist the office with poll manager recruitment and contact prior to elections.
- (7) Aiken County Council should agree to supplement the amount paid to poll clerks and poll managers and consider per diem or some other bonus to those working in the remote locations.
- (8) To combat the issue of poll managers not showing up for work, consider having a list of pre-screened poll managers to serve as back-ups who can be deployed in the event of no-shows. Emergency/back-up poll managers should be provided some type of every vote matters.

every vote counts.

compensation in the event they do not work but have rearranged their schedules to assist with an election.

Section 3: Funding Issues

The Delegation's letter requested that the SEC, "...investigate and review the following:

(6) adequate funding from the County to ensure that elections are conducted properly including adequate staffing to assist with election security and training.

The SEC reviewed this issue and below are the agency's findings and recommendations.

Finding 4: Despite numerous and repeated requests for resources and appropriations to the Aiken County Council, the Aiken County Office is severely underfunded, both in terms of having the resources to complete its mission and in comparison to similarly sized counties.

Finding 4 Discussion:

<u>Aiken County Voter Registration and Elections Office – Budget Information and Similar County</u> <u>Comparisons</u>

When comparing the Aiken County Office to other like size county voter registration and elections offices, it appears that the Aiken County Office could better serve the voters of Aiken County if more funding from Aiken County Council is received to support core functions of the office.

A review of the Aiken County budgets over the last 5 years shows that there is adequate county funding to allocate more dollars to the Voter Registration and Elections Office.

Though similar in size, the Anderson County and Beaufort County have double or more the number of full-time staff in their County Voter Registration and Elections Offices and Dorchester has, at a minimum, two more full time employees on staff.

The Aiken County Office should receive more FTE's and funding for those FTEs to have the same level of service and support for the county voters as other similar sized county offices.

	Population	Voting Population	Staff
Aiken	170,000	115,000	3 FTEs
Anderson	204,000	125,000	8 FTEs
Beaufort	187,000	137,000	11 FTEs
Dorchester	162,000	106,000	6 FTEs



Takeaways from Aiken County Office of Voter Registration and Elections Budget Review

- The Aiken County Council has funded the office at approximately 50% of its requested budget for the last three fiscal years.
- The Office has consistently asked County Council for funding for new positions and was denied.
- In 2019, 2021, and 2022 County Council significantly cut the budget request submitted by the Office for salaries & wages contracts.
- The Office asked County Council for funding for new positions in 2020, 2021, and 2022 and was denied those requests.
- The Office receives almost double the amount of budget funding to pay for operational expenses as it does to pay for personnel expenses. This allocation of funds is unusual and does not match comparable county budgets or match the way funds are distributed among other Aiken County departments. Typically, personnel expenses far outweigh operational expenses. However, that is not the case when reviewing the allocation of the Aiken County Office's budget.

Aiken County Voter Registration & Elections Office Budget 3 Year Comparison

- The Aiken County Office requested funding for new positions in its budget request to County Council in 2020, 2021, and 2022.
 - County Council denied the funding requests for new position salaries and wages in 2020, 2021 and 2022.
 - During FY 2020, County Council approved a total budget of \$1.37 Million for the Office, but the line-item budget request submitted by the Office for new positions, at \$35,858, was denied by County Council that same year.















Disparities in Funding – Personnel vs. Operating Expenses

The FY2022 budget of the Aiken County Office was compared to the budgets of the following like size voter registration & election offices:

- Anderson County Voter Registration and Elections Office
- Beaufort County Voter Registration and Elections Office
- Dorchester County Voter Registration and Election Office

The Aiken County Office spends more funding on operational expenses than it does on personnel expenses. This is a direct contrast of how the budgets are broken down in Anderson, Beaufort, and Dorchester County Offices.

The comparable counties weigh funding much more heavily towards personnel expenses instead of operational expenses.

Though similar in population and voting population, the Aiken County Office has half the number of FTEs of the Dorchester County Office and much less than half of the number of FTEs of the Anderson County and Beaufort County Offices.

	Population	Voting Population	Staff
Aiken	170,000	115,000	3 FTEs
Anderson	204,000	125,000	8 FTEs
Beaufort	187,000	137,000	11 FTEs
Dorchester	162,000	106,000	6 FTEs













Number of Elections Conducted over 3 Year Period

Despite having significantly less staff than the Anderson, Beaufort, and Dorchester Offices, the Aiken County Office conducted, on average, at least twice the number of elections between FY 2020 and FY2022 than those other counties.





<u>Summary</u>

The SEC found that, in the 2022 Primary and Run-off Elections, the Aiken County Office did not follow certain policies and procedures relating to election night intake (as outlined in each finding). The causes of these failures are many but can be focused into three main areas: lack of written procedures, lack of training on those procedures, and lack of adequate personnel to complete all required tasks effectively.

Each county is responsible for having detailed, written procedures to prepare for an election, conduct an election, and canvass an election (all post-election procedures). During this review, it was found that Aiken County does not have any written election night procedures and, thus, individuals performing various tasks have not been trained on how to complete formal procedures but have rather learned by watching and doing what others have previously done (which may not be the correct way to complete a task). This is an untenable position and does not promote uniformity, efficiency, or accountability (compliance with federal law, state law, or SEC policies and procedures).

However, as has been explained, even if the Aiken County staff resolved to draft and review formal procedures, and then train existing staff on those procedures, it is doubtful they would have the adequate time to complete those tasks and fulfill their existing workload. The Aiken County Office is asked to do more, with less, than their comparable counterparts in the state. As Aiken County continues to see growth, it will see an increase in the number of registered voters, which means increased workloads for the staff. The SEC has committed to assisting the Aiken County Office with policies and procedures, but simply put—the Aiken County Office needs more staff and funding to properly fulfill its mission as a core function of Aiken County government. Increasing appropriations and staff to the Aiken County Office would be an investment by the County in keeping its elections accurate, secure, accessible, and credible.