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Election set to replace Langford

Riley maintains he'll name commissioner

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The Jefferson County Election Commission on Monday set a Feb. 5 election to replace Larry Langford on the County Commission.

That action sets up a likely legal showdown with Gov. Bob Riley, who maintains he has the authority to appoint Langford's replacement.

Langford, who won the Oct. 9 election for mayor of Birmingham, has said he would leave the commission and take office at City Hall Nov. 13.

The Election Commission, made up of Probate Judge Alan King, Sheriff Mike Hale and Circuit Clerk Anne Marie Adams, set the special election to coincide with Alabama's presidential primary.

King, the county's chief election officer, said a Jefferson County statute calls for holding an election to fill an open commission seat. King said 2004 state legislation that gives the governor power to fill commission vacancies by appointment specifically excludes counties with their own rules for special elections, such as Jefferson County.

However, Riley's office maintains that the governor has the authority to fill the seat.

"What the Election Commission has done is both illegal and unconstitutional," said Ken Wallis, Riley's chief legal adviser. "They are acting on a law that is invalid."

Wallis said the election officials are wrong to cite the 1977 legislation and are misinterpreting the 2004 act. The 1977 act is void because it was passed before the 2004 law took effect, Wallis said.

"Jefferson County can call an election. It will be challenged," Wallis said. "They won't be able to hold their election. The courts will not allow them to act on that law."

Another law needed:

The Legislature would have to pass another law giving the county authority to call special elections in order for that to occur legally, Wallis said. Such a change would take several months.

"In the meantime, you're going to have 66,000 people unrepresented for a minimum of seven months, perhaps longer, and it's not right for them to be unrepresented," Wallis said. "The governor has the general power to appoint. If the governor appoints, he can appoint instantly."

The Election Commission's decision comes after officials including U.S. Rep. Artur Davis and Birmingham City Council members called for an election to replace Langford. The council today will vote on a resolution urging an election.

The heads of both the Alabama Democratic Party and the Jefferson County Democratic Party on Monday made public statements asking the governor to allow the Election Commission's action to proceed.

The governor's office called those statements unfair. "This is not the governor trying to take anybody's right to vote," Wallis said. "That is a crazy interpretation of the circumstances. This is the governor trying to get the voters in that district represented as quickly as possible."

Wallis said Riley favors elections when possible. But Jefferson County must have a valid law on the books for that to happen, and it doesn't, he said.

Vote was bipartisan:

The commission's vote was bipartisan. Adams and King are Democrats and Hale a Republican.

"I'm proud of the Election Commission and the decision that was made," King said.

Members agreed the laws are convoluted but said ultimately the residents of District 1 have the right to choose their representative on the commission.

"In my opinion, the law is clear even though the water may be murky," Adams said.

Once an election is called, candidates for the seat have until Jan. 15 to qualify. Unlike regular County Commission elections that include party primaries, the special election would be general, with no primaries, according to the 1977 legislation.

The special election would be called only after Langford resigned his commission post.

Langford's mayoral victory is being challenged in court by lawyer Patrick Cooper, who finished a distant second to Langford. Cooper says Langford did not meet requirements to run for mayor because he did not live in Birmingham when he declared his candidacy. A hearing on that case is Nov. 14, the day after Langford is expected to be sworn in.

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