



A SELECTED READING

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The Special Federal Census

Alabama municipalities have the authority under state law to arrange for the United States Census Bureau to conduct, at certain intervals, special federal population enumerations. This authority for Alabama municipalities to obtain a special census is set forth in Sections 11-47-92 and 11-47-93, Code of Alabama 1975.

Section 11-47-92 states: “Any city or town may by ordinance provide for a census of all persons residing within the corporate limits of such city or town to be taken by the bureau of the census of the United States Department of Commerce ...” This statute provides the legal basis for municipalities to enter into agreements with the U.S. Census Bureau and thereby makes it lawful for the governing body of a municipality to spend municipal funds to pay for the cost of a special census.

Section 11-47-92 does place one limitation on the taking of a special census by providing that “... no such census may be conducted more often than every five years.” This is not a serious limitation, however, since it is not usually necessary or desirable for a municipality to have a census more often than every five years. If a special census was taken more frequently, it is likely that the advantages accruing from it would not offset the cost involved.

The Attorney General advised the mayor of Fairfield on December 4, 1953 that Section 11-47-92 would not prevent a municipality from having two special censuses in the 10 years between regular federal decennial censuses, provided that the two special censuses are at least five years apart.

Effects of the Special Federal Census

Section 11-47-93, Code of Alabama 1975, states: “Any census taken under the provisions of Section 11-47-92 shall be used only as the basis for any law which provides for the levy or collection of license taxes where such levy or collection of license taxes is based on population and as the basis for any law which provides for the distribution of state-collected or county-collected licenses, excises, revenues or funds, where such distribution is administered or distributed on a population basis.”

The Attorney General has ruled that the most recent census, not necessarily the last federal decennial census, is to be used for the distribution of Alcoholic Beverage Control Board profits. 131 Quarterly Report of the Attorney General 8. Therefore, if a special federal census shows that the municipality has increased in population, the municipality should notify the ABC Board of this increase so that the city or town can begin to receive the proportionate increase in ABC Board revenues. Section 28-3-74, Code of Alabama 1975.

A special federal census taken pursuant to these sections will have no effect on the form of the city’s government because Section 11-47-93 provides that **a special federal census can be used only for revenue purposes**. A special federal census will have no effect on the amount of revenue a municipality receives from state shared revenue based on the municipality’s population according to the last federal decennial census. However, specific provisions relating to specific subjects control general provisions relating to general subjects. Thus, if a special federal census is taken for the purpose of determining population for the levy or collection of license taxes, the census may also be used for the purposes of determining population for school purposes under Section 16-11-2, Code of Alabama 1975. Section 16-11-2 authorizes the use of a special federal census in the specific area of establishment of a city school system. AGO 2007-003

A special federal census will affect the amount of the privilege license fee that a municipality can levy on businesses **only** where those licenses are based on population according to the last federal census. If the amount of the license is based on the population of the municipality according to the last federal decennial census, then a special federal census will have no effect on that particular license.

A special census will affect the license fees levied against telegraph companies, telephone companies, insurance companies other than fire and marine, express companies and railroads. A municipality cannot charge the increased license fees on the above mentioned businesses until the governing body has amended its license schedule to reflect the new fees. The governing

body can amend its license code at any time. If a code is amended prior to July 1, the municipality can collect the entire fee from the businesses to which it applies. However, if the license code is amended after July 1, the municipality may only collect one-half of the total amount of the new fee for the business. Sections 11-51-92, Code of Alabama 1975.

Section 40-17-359, Code of Alabama 1975, provides that the municipal share of the state gasoline tax is to be distributed among municipalities on the basis of population according to the “then next preceding federal decennial census.” Therefore, a special federal census will not affect the amount of revenue a municipality receives from the state gasoline tax. The general distribution provisions set forth in this section do not apply to municipalities located in Jefferson, Montgomery, Madison, Mobile, Etowah, Barbour, Russell, Calhoun, Dale and Morgan Counties or other counties which are under special local acts. For municipalities in these counties, the local act applicable to the county must be examined to learn if a special federal census will affect their share of the county gasoline tax.

Distinguished from Other Special Censuses

The procedure for a special **federal census** is codified at Section 11-47-92 and 11-47-93, Code of Alabama 1975. Provision is also made in Sections 11-47-90, 11-47-91, 11-47-94 and 11-47-95 for the taking of a special **municipal census** by a municipal governing body. These two procedures are entirely separate and should not be confused because of the way they are codified. The provisions found in Sections 11-47-90, 11-47-91, 11-47-94 and 11-47-95 cannot be used or read together with Sections 11-47-92 and 11-47-93 or vice versa.

How to Obtain a Special Federal Census

The Special Census is typically on hiatus two years before and two years after the Decennial Census. During this time program materials and systems are updated. The Decennial Census is comprised of a very complex series of operations that demand a significant amount of work and staff resources. As a result, staffing critical to the success of the Special Census Program are unavailable during the two years immediately before and after a Decennial Census.

The U.S. Census Bureau will conduct a special census on a reimbursable agreement with a local government subject to the following conditions:

- The community agrees to pay all necessary expenses. Expenses may exceed original estimates particularly if the number of persons enumerated exceeds the expected population on which the cost estimate was based.
- The community agrees to provide suitable office space equipped with furniture, telephone, typewriters and other equipment necessary for the successful completion of the census.
- The community should make available qualified, mature persons who are able and willing to work full time as enumerators in the special census.
- The census supervisor will interview and test these people. Selections for employment will be based on the results of the test.
- The individual returns from the special census remain the property of the Bureau of the Census.
- Special tabulations at additional cost are available in the form of statistical summaries, provided that no information is released which might disclose the identity of any person. Special tabulations must be requested within three months of the date on which the special census count is finalized.

When a local government desires to have a special census taken, an authorized official should write a letter to Office of Special Censuses, Bureau of the Census, 4600 Silver Hill Road, RM5H023, Washington, D.C., 20233 to request a cost estimate. Since the bureau receives no appropriations for special censuses, it must charge a fee for the preparation of the cost estimate. As of September 2016, the fee for the preparation of a cost estimate was \$200 for a special census. A special census cost estimate request package can be obtained from the Census Bureau’s website at <http://www.census.gov/programs-surveys/specialcensus.html> or by calling 301-763-1429 or emailing SpecialCensusProgram@census.gov.

Once a community sends the initial payment to the bureau, maps of the area will be sent to the community for updating. Normally the census will be scheduled in 90 to 120 days after the updated maps are returned. A cost estimate, which has not been accepted within 90 days by local officials, is subject to revision to take into account any changes in wage rates or other costs that may have occurred.

The enumeration is conducted under the same rules as those which govern the federal decennial census. Members of the armed forces living and stationed in the community are included in the enumerations but persons who have entered the armed forces from that particular city or town and who are now stationed elsewhere are not included. Visitors who are staying in the area for the summer only or the winter only are not enumerated unless they are working in the area or have no usual

residence elsewhere. Persons enrolled in colleges or universities are enumerated at the place where they live while attending college. Unlike the decennial census, response to a special census is voluntary.

The special census supervisor, who will be an experienced employee of the Bureau of the Census, will select, appoint and train the staff and conduct the enumeration. At the conclusion of the enumeration, a preliminary count will be made by the supervisor and the results will be submitted to the local officials requesting the census. The census supervisor may also release these counts to officials in the political subdivisions of the area enumerated, to the news media and to others who are interested.

The standard questionnaire includes the name of each resident of the special census area, relationship status, age, sex, color or race. In addition, occupancy/vacancy status, number of units in a structure and tenure are collected for housing units.

Summary data for all special censuses are published in semiannual reports issued by the Bureau. Additional unpublished data can also be made available for an extra charge. Under certain circumstances, questions may be added to the census, provided that additional lead time is allowed to prepare a new questionnaire and additional estimated costs are agreed upon.

Revised 2020